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SUBCOMMITTEE ON TRADE

OF THE

COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

WRITTEN COMMENTS

ON

MISCELLANEOUS CORRECTIONS TO TRADE LEGISLATION AND MISCELLANEOUS DUTY SUSPENSION BILLS

DECEMBER 30, 1997

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ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON TRADE

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Crane Announces Request for Written Comments on Miscellaneous Corrections to Trade Legislation and Miscellaneous Duty Suspension Bills

Congressman Philip M. Crane (R–IL), Chairman, Subcommittee on Trade of the Committee on Ways and Means, today announced that the Subcommittee is requesting written public comments for the record from all parties interested in technical corrections to recent trade legislation and miscellaneous duty suspension proposals.

BACKGROUND:

During the 104th Congress, a number of technical amendments were proposed to facilitate the implementation of the major trade legislation passed during the 103rd Congress, including the North American Free Trade Agreements Implementation Act [P.L. 103–182] and the Uruguay Round Agreements Act [P.L. 103–465]. As a result of consideration of these proposals and miscellaneous tariff measures, Congress passed the Miscellaneous Trade and Technical Corrections Act of 1996 [P.L. 104–295], which was signed into law by the President on October 11, 1996.

As part of the ongoing process of identifying technical changes to improve the efficiency of the trade laws, several proposals have been submitted to the Subcommittee by the Administration and the business community for possible consideration in future legislation. In addition, Members have introduced legislation to provide temporary suspension of duty or duty-free treatment for specific products. Chairman Crane is requesting submission of written comments on these proposed changes to U.S. trade law.

PROPOSED MISCELLANEOUS CORRECTIONS:

1. Amend 19 U.S.C. 1515(a) to provide that within 30 days from the date an application for further review is filed, the appropriate customs officer shall allow or deny the application and, if allowed, forward the protest to the customs officer who will be conducting the further review.

2. Require the Commissioner of Customs to provide no less than 30 days public notice for changes in regulations, except to avoid excessive costs or to meet emergency requirements of the Customs Service.

3. Section 313 of the Tariff Act of 1930 (19 U.S.C. 1313) was amended by the North American Free Trade Agreements (NAFTA) Implementation Act [P.L. 103–182] to provide special accounting and attribution rules for drawback on petroleum products. The provision was to allow the petroleum industry to account for selected petroleum products on a quantitative basis, relieving Customs and industry from the problem of "tracking molecules" for the attribution of drawback. However, Customs current interpretation of 19 U.S.C. (p)(2)(a)(iv) relating to substitution drawback for finished petroleum derivatives requires companies to track delivery of the actual imported petroleum in possession of the exporter, in effect requiring the tracing of molecules. The proposed amendment would clarify the original intention of the Customs Modernization Act that selected petroleum products should be tracked on a quantitative basis for purposes of substitution drawback.

4. Section 313 of the Tariff Act of 1930 (19 U.S.C. 1313) was amended by the North American Free Trade Agreements Implementation Act [P.L. 103–182] to insert a new subsection (q) allowing drawback on packaging materials, where the packaging is "used" by filling prior to exportation. Customs interprets "use" by filling to be limited to the manufacturer of the packaging material and that filling may not be performed by another company. Customs proposes to reverse or modify Headquarters ruling 225658 of January 17, 1995, allowing such treatment. This proposed provision would amend section 313(q) of the Tariff Act of 1930 (19 U.S.C. 1313(q)) by inserting a new section for drawback eligible packing material filled prior to exportation. The proposed provision would provide that packaging materials produced in the United States, which are used by the manufacturer or any other person for articles which are exported or destroyed shall be eligible for a drawback refund of 99 percent of any duty, tax, or fee imposed on the importation of materials used to manufacture the packing materials. The proposed amendment would provide that U.S.-produced packaging material may be "used" by the manufacturer or any other person and, thus, will remain eligible for drawback payment.

5. Amend section 411 et seq. of the Tariff Act of 1930 (19 U.S.C. 1411 et seq.) relating to the National Customs Automation Program to require Customs to establish and implement the means by which foreign-trade zone admission data can be electronically filed.

6. Amend section 491(a) of the Tariff Act of 1930 (19 U.S.C. 1491(a)) to extend the retention period for International Travel Merchandise (ITM) held at Customs-approved storage rooms (CASR) to five years, identical to the period for all classes of Customs-approved bonded warehouses. ITM consists of in-flight merchandise sold on board international air carriers after departure from U.S. Customs territory. Presently, ITM is imported to the United States under bond and is moved to centralized, Customs-approved bonded warehouses. The merchandise is further distributed to CASRs near the airports where it is stored, manipulated, and exported under Customs' supervision. The CASRs are regulated as if the merchandise were being held "on dock" awaiting exportation. Prior to the Customs Modernization Act, ITM had been held at the CASRs in 90-day increments for up to one year. However, Customs believes that, under the terms of a revision provided in the Customs Modernization Act relating to unclaimed merchandise in General Order warehouses, the maximum period may now be six months. The proposed revision would extend the retention period to five years and extend to CASRs the same treatment which is given to Customs-approved bonded warehouses.

7. Section 431 of the Tariff Act of 1930 outlines the requirements, form, and content of manifest information which must be publicly disclosed. Section 431(c) outlines the requirements for public disclosure of manifest information. On July 2, 1996, the President signed the Anticounterfeiting and Consumer Protection Act of 1996 [P.L. 104–153], which amended section 431(c)(1) to require public disclosure of vessel and aircraft manifest information, as well as additional requirements as to the content of such information. On October 11, 1996, the President signed into law the Miscellaneous Trade and Technical Corrections Act of 1996 [P.L. 104–295], which amended section 431(c)(1) to require public disclosure of vessel manifest information only, and makes no additions to the law regarding the content of such information. Given the potentially conflicting interpretations of these laws, legislation

may be needed to clarify that the language contained in the Miscellaneous Trade and Technical Corrections Act of 1996 reflects Congressional intent.

8. Amend section 505(c) of the Tariff Act of 1930 (19 U.S.C. 1505(c)) to clarify that Customs must refund interest payable on refunds of duty arising from NAFTA claims under 19 U.S.C. 1520(c) for the full period from the date of payment to the Government to the date of liquidation or reliquidation. Under current law, Customs is required to refund interest only for the period from the date of filing the claim to the date of reliquidation.

9. Amend section 520(d) of the Tariff Act of 1930 (19 U.S.C. 1520(d)), relating to goods qualifying under NAFTA rules of origin, to clarify that merchandise processing fees (MPFs) may be refunded along with excess duties if NAFTA-eligibility is proven. Under the NAFTA Implementation Act [P.L. 103–182], MPFs are not imposed on goods originating in NAFTA countries. To claim a NAFTA preference, an importer must provide a valid certificate of origin. In practice, certificates of origin are not always available at the time of importation. Importers often pay duties and the MPF on a good they know is NAFTA-eligible, with the expectation that the MPF will be refunded later as an excess duty when NAFTA-eligibility is proven. Customs has taken the position that MPFs are not refundable excess duties under 19 U.S.C. 1520(d).

10. Amend section 514(a) of the Tariff Act of 1930 (19 U.S.C. 1514(a)) to ensure that if an importer is entitled to a NAFTA preference, there is a method for obtaining a refund of the duties paid at the time of entry. It is a violation of law for an importer to claim a NAFTA preference before receiving a valid certificate of origin issued by the exporter. Many importers do not have a certificate of origin at the time goods are entered, and subsequently file post-entry claims when a valid certificate of origin is received. If the entry is liquidated before receiving a certificate of origin, importers generally protest the liquidation under 19 U.S.C. 1514. This action prevents the liquidation from becoming final before the valid NAFTA-eligibility claim is made. Customs position is that protests under 19 U.S.C. 1514 are inapplicable to NAFTA claims, that such claims must be filed under 19 U.S.C. 1520(d) within one year from the date of entry. The provision would clarify that importers may use the protest procedure under 19 U.S.C. 1514 to claim the NAFTA preference.

11. Amend 19 U.S.C. 2083 and 19 U.S.C. 2071 to eliminate the requirement that Customs provide Congress with three annual reports: (1) the Violation Estimates Report, which contains estimates on the number and extent of violations of trade, customs and illegal drug control laws, and the relative incidence of violations estimated among the various ports of entries; (2) the Enforcement Strategy Report, which outlines a nationally uniform enforcement strategy for dealing with violations 90 days after the Violation Estimates Report; and (3) the Merchandise Damaged Statistics, which provides statistics on the incidence, nature, and extent of damage to merchandise resulting from Customs examinations.

DUTY SUSPENSION AND DUTY-FREE ENTRY BILLS:

1. Amend chapter 99, subchapter II of the Harmonized Tariff Schedule (HTS) by inserting a new heading 9902.32.22 for the chemical 3-acetyloxy)-2-methyl-Benzoic acid (CAS No. 168899–58–9)(provided for in subheading 2916.39.75) used in the production of anti-HIV/anti-AIDS drugs, as temporarily duty free. (H.R. 2048)

2. Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.32.16 for the chemical (S)-N--[[5-[2-(2-amino-4,6,7,8-tetrahydro-4-oxo-1H-pyrimido[5,4-b][1,4]thiazin-6-yl)ethyl]-2-thianyl]carbonyl-L-glutamic acid diethyl ester (CAS No. 177575–19–8)(provided for in subheading 2930.90.90) used in the production of anti-cancer drugs, as temporarily duty free. (H.R. 2041)

3. Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.32.20 for the chemical 2-amino-5-bromo-6-methyl-4(1H)-Quinazolinone (CAS No. 147149–89–1)(provided for in subheading 2921.51.50) used in the production of anti-cancer drugs, as temporarily duty free. (H.R. 2046)

4. Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.32.21 for the chemical 2-amino-6-methyl-5-(4-pyridinylthio)4(1H)-Quinazoli-

none (CAS No. 147149–76–6)(provided for in subheading 2921.51.50) used in the production of anti-cancer drugs, as temporarily duty free. (H.R. 2045)

5. Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.32.20 for 2-Amino-5-Nitrothiazole (CAS No. 121–66–4)(provided for in subheading 2934.10.90.00) as temporarily duty free. (H.R. 1926)

6. Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.32.32 for Benzenesulfonic acid, 2-amino-5-nitro-, monosodium salt (CAS No. 30693–53–9)(provided for in subheading 2921.42.90.00) as temporarily duty free. (H.R. 1933)

7. Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.32.34 for Benzenesulfonic acid, 2-amino-5-nitro-, monoammonium salt (CAS No. 4346–51–4)(provided for in subheading 2921.42.90.00) as temporarily duty free. (H.R. 1930)

8. Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.32.36 for Benzenesulfonic acid, 2-amino-5-nitro, (CAS No. 96–75–3)(provided for in subheading 2921.42.90.00) as temporarily duty free. (H.R. 1934)

9. Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.32.38 for Benzenesulfonic acid, 3-(4,5,-dihydro-3-methyl-5-oxo-1H-pyrazol-1-yl)- (CAS No. 119–17–5)(provided for in subheading 2933.19.43.00) as temporarily duty free. (H.R. 1935)

10. Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.32.44 for Benzenesulfonic acid, 2,2′-(1,2-ethenediyl)bis [5-nitro- (CAS No. 128–42–7)(provided for in subheading 2904.90.35.00) as temporarily duty free. (H.R. 1938)

11. Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.32.48 for Benzenesulfonic acid, 4-chloro-3-nitro (CAS No. 121–18–6)(provided for in subheading 2904.90.47.00) as temporarily duty free. (H.R. 1919)

12. Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.32.50 for Benzenesulfonic acid, 4-chloro-3-nitro-, potassium salt (CAS No. 6671–49–4)(provided for in subheading 2904.90.47.00) as temporarily duty free. (H.R. 1920)

13. Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.32.52 for Benzenesulfonic acid, 4-chloro-3-nitro-, sodium salt (CAS No. 17691–19–9)(provided for in subheading 2904.90.40.00) as temporarily duty free. (H.R. 1922)

14. Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.32.54 for Benzenesulfonic acid, 2-methyl-5-nitro (CAS No. 121–03–9)(provided for in subheading 2904.90.20.00) as temporarily duty free. (H.R. 1923)

15. Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.32.22 for 6-Bromo-2,4,Dinitroaniline (CAS No. 1817–73–8)(provided for in subheading 2921.42.90.00) as temporarily duty free. (H.R. 1927)

16. Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.34.02 for Caprolactam blocked methylene-bis-(4-phnylisocyanate)(CAS No. 54112–23–1)(provided for in subheading 3402.90.30) as temporarily duty free. Amend chapter 99, subchapter II of the HTS by inserting a new subheading 9902.38.24 for N,N,N[1],N[1]-tetrakis (2-hydroxyethyl)-heaxane diamide (referred to as Beta Hydroxyalkylamide)(CAS No. 6334–25–4)(provided for in subheading 3824.90.90) as temporarily duty free. (H.R. 1677)

17. Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.32.17 for the chemical 4-Chloropyridine hydrochloride (CAS No. 7379–35–3)(provided for in heading 2933.90.82) used in the production of anti-cancer drugs, as temporarily duty free. (H.R. 2042)

18. Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.32.14 for carbamic acid (U–9069) [3-((dimethylsomino) carbonyl)-2-pyridinyl

sulfonyl]-phenyl ester (CAS No. 112–006–94–7) (provided for in heading 2935.00.75) as temporarily duty free. (H.R. 1606)

19. Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.31.12 for 3-ethoxycarbonyl-aminophenyl carbanilate (referred to as desmedipham)(CAS No. 13684–56–5)(provided for in subheading 2924.29.41) as temporarily duty free. (H.R. 2060)

20. Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.32.24 for 3(Diethylamino) Propylamine (CAS No. 104–78–9)(provided for in subheading 2921.29.00.55) as temporarily duty free. (H.R. 1928)

21. Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.32.23 for the chemical [S-(R*,R*)]-2,3-dihydroxy-Butanedioic acid (CAS No. 147–71–7)(provided for in subheading 2918.19.90) used in the production of anti-HIV/anti-AIDS drugs, as temporarily duty free. (H.R. 2047)

22. Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.32.19 for the chemical (3S)-2,2-Dimethyl-3-thiomorphiline carboxylic acid (CAS No. 84915–43–5)(provided for in heading 2921.30.50) used in the production of anti-cancer drugs, as temporarily duty free. (H.R. 2044)

23. Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.32.90 for Diiodomethyl-p-tolylsulfone (CAS No. 20018–09–1)(provided for in heading 2930.90.10) as temporarily duty free. (H.R. 1548)

24. Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.32.26 for 3(Dimethylamino) Propylamine (CAS No. 109–55–7)(provided for in subheading 2921.29.00.55) as temporarily duty free. (H.R. 1929)

25. Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.31.12 for 2-ethoxy-2,3-dihydro-3,3-dimethyl-5-benzofuranyl methanesulfonate (referred to as ethofumesate)(CAS No. 26255–79–6)(provided for in subheadings 2932.99.08 and 3808.30.15) as temporarily duty free. (H.R. 2059)

26. Amend General Note 16 of the HTS to allow duty-free entry of an additional quantity of green peanuts that are the product of Mexico. General Note 16 of the HTS outlines exemptions to the application of General Note 1, which states generally that all goods provided for in the HTS are subject to duty. The bill would amend General Note 16 to increase by 453,597 kilograms the quantity of peanuts in immature form entered from January 1 to April 30 for consumption as boiled peanuts that are qualifying goods under subheading 9906.12.01, which outlines goods from Mexico covered under General Note 12 of the HTS (General Notes of interpretation for NAFTA). (H.R. 1907)

27. Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.54.03 for high tenacity single yarn of viscose rayon (provided for in subheading 5403.10.30) as temporarily duty free. (H.R. 1954)

28. Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.64.04 for skating boots for use in the manufacture of in-line roller skates (provided for in subheading 6404.11.90) as temporarily duty free. (H.R. 1882).

29. Amend chapter 99, subchapter II of the HTS by inserting a new subheading under heading 9902.30 for 2-4-dichlon-5-hydrozyhydrazine hydrochloride (referred to as KN001)(CAS No. 189–573–21–5)(provided for in subheading 2928.00.25.00) as temporarily duty free. (H.R. 1897)

30. Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.84.79 for calendaring or other rolling machines for rubber (provided for in subheadings 8420.10.90, 8420.91.90, or 8420.99.90) and material holding devices or similar attachments thereto, as temporarily duty free. (H.R. 1945)

Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.84.81 for shearing machines used to cut metallic tissue capable of a straight cut of 5 m or more (provided for in subheading 8462.31.00). (H.R. 1945)

Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.84.83 for machine tools for working wire of iron or steel for use in products provided for in subheading 4011.20.10 (provided for in subheading 8463.30.00). (H.R. 1945)

Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.84.85 for extruders of a type used for processing rubber (provided for in subheading 8477.20.00 or 8477.90.80). (H.R. 1945)

Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.84.87 for machinery for molding, retreading, or otherwise forming uncured, unvulcanized rubber for use in processing rubber products provided for in subheading 4011.22.10 (provided for in subheading 8477.51.00 or 8477.90.80). (H.R. 1945)

Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.84.89 for sector mold press machines used for curing or vulcanizing rubber (provided for in subheading 8477.90.80). (H.R. 1945)

Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.84.91 for sawing machines for working cured, vulcanized rubber described in heading 4011 (provided for in subheading 8465.91.00). (H.R. 1945)

31. Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.32.18 for a chemical 3-Mercapto-D-valine (CAS No. 52–67–5)(provided for in subheading 2927.49.40) used in the production of anti-cancer drugs, as temporarily duty free. (H.R. 2043)

32. Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.32.14 for 1,3-Napthalenedisulfonic acid, 6-amino- (CAS No. 118–33–2)(provided for in subheading 2921.45.90.90) as temporarily duty free. (H.R. 1921)

33. Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.32.16 for 1,3-Napthalenedisulfonic acid, 6-amino-,disodium salt (CAS No. 50976–35–7)(provided for in subheading 2921.45.90.90) as temporarily duty free. (H.R. 1924)

34. Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.32.30 for 2-Napthalenesulfonic acid, 7-(acetylamino)-4-hydroxy-, monosodium salt (CAS No. 42360–29–2)(provided for in subheading 2924.29.70.00) as temporarily duty free. (H.R. 1932)

35. Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.32.40 for 2,7-napthalenedisulfonic acid, 4-(benzoylamino)-5-hydroxy-, (CAS No. 117–46–4)(provided for in subheading 2924.29.75.90) as temporarily duty free. (H.R. 1936)

36. Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.32.42 for 2,7-napthalenedisulfonic acid, 4-(benzoylamino)-5-hydroxy-,sodium salt, (CAS No. 79873–39–5)(provided for in subheading 2924.29.70.00) as temporarily duty free. (H.R. 1937)

37. Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.56.03 for nonwoven fiber sheet (provided for in subheading 5603.13.00) as temporarily duty free, and by inserting a new U.S. Note relating to the interpretation of term “nonwoven fiber sheet” under that new heading. (H.R. 1304)

38. Amend chapter 55 of the HTS by striking subheading 5501.30.00 and inserting new subheadings with the same degree of indentation as the article description for subheading 5501.20.00 to provide duty-free treatment for oxidized polyacrylonitrile fibers for use in aircraft brake components. (H.R. 1973)

39. Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.31.12 for Para ethyl phenol (referred to as PEP)(provided for in subheading 2907.19.20) as temporarily duty free. (H.R. 1678)

40. Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.29.09 for (+/−tetrahydrofurfuryl (R)-2-[4-(6-chloroquinoxaline-2-yloxy) phen-

oxyl propanoate (referred to as Pantera)(CAS No. 119738–06–6)(provided for in subheading 2909.30.40) as temporarily duty free. (H.R. 1886)

41. Amend the HTS to allow entry of peanut butter and peanut butter paste manufactured from Mexican peanuts in foreign trade zones, without being subject to a tariff-rate quota. General Note 15 of the HTS outlines products which are not counted against the quantity specified as the in-quota quantity for agricultural products of chapters 2 through 52, inclusive, if the product is of a type (i) subject to tariff-rate quota, and (ii) subject to the provisions of subchapter IV of chapter 99. The provision would add a new subparagraph to General Note 15 as follows: "(f) peanut butter and paste manufactured in, and entered from, a foreign-trade zone, provided that (i) any peanuts that are not qualifying goods under General Note 12, and (ii) any peanut butter or paste, imported for use in such manufacturing are entered for consumption prior to admission to the foreign trade zone." (H.R. 1875)

42. Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.31.12 for 3-methylcarbonyl-aminophenyl-3-methyl-carbanilate (referred to as phenmedipham)(CAS No. 13684–63–4)(provided for in subheading 2924.29.47) as temporarily duty free. (H.R. 2058)

43. Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.32.18 for Phenol, 2-amino-4-methyl- (CAS No. 95–84–1)(provided for in subheading 2922.29.10.00) as temporarily duty free. (H.R. 1925)

44. Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.32.15 for the chemical 4-Phenoxypyridine (CAS No. 4783–86–2)(provided for in subheading 2933.90.82) used in the production of anti-cancer drugs, as temporarily duty free. (H.R. 2049)

45. Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.32.14 for P-nitrobenzoic (CAS No. 62–23–7)(provided for in subheading 2916.89.45) as temporarily duty free. (H.R. 1940)

46. Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.39.20 for polyethylene base materials that are sanded on one side and surface-treated for use in the manufacture of skis and snowboards (provided for in heading 3920.10.00) as temporarily free of duty. (H.R. 1890)

47. Amend chapter 39 of the HTS by striking heading 3907.99.00 and inserting new headings 3907.99 having the same degree of indentation as the article description for heading 3907.91. The new heading would reduce to 3.5 percent the duty on a polymer of alkanediols, monocyclic dicarboxylic acid dimethyl ester, monocyclic monosulfonated dicarboxylic acid dimethyl ester monosodium salt and hydroxy alkoxyalkanesulfonic acid sodium salt. (H.R. 1852)

48. Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.32.14 for P-Toluenesulfonamide (CAS No. 70–55–3)(provided for in heading 2935.00.95) as temporarily duty free. (H.R. 1214)

49. Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.30 for Sodium 2-chloro-6-[(4,6-dimethoxy pyrimdin-2-yl)thio] benzoate)(referred to as Pyrithiobac Sodium)(CAS No. 123–343–16–8)(provided for in heading 2933.59.10.00) as temporarily duty free. (H.R. 1793)

50. Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.32.16 for N-[(4,6-Dimethoxypyrimidin-2-yl) aminocarbonyl]-3-(ethylsulfonyl)-2-pyridine--sulfonamide (referred to as Rimsulfuron)(EPA Reg. No. 352–555)(provided for in heading 2933.59.10) as temporarily duty free. (H.R. 1607)

51. Amend U.S. Note 6, subchapter X, chapter 98 of the HTS to clarify that certain large components of certain scientific instruments and apparatus shall be provided the same tariff treatment as those scientific instruments and apparatus. The bill would provide that the term "instruments and apparatus" under subheading 9810.00.60 would include separable components of an instrument or apparatus that are imported for assembly in cases in which the instrument or apparatus, due to its size and complexity, cannot be imported in its assembled state. The bill would also provide for a single expedited hearing at the discretion of the Secretary of Commerce to determine whether or not to grant such duty treatment. (H.R. 1876)

52. Amend chapter 72 of the HTS by inserting several new subheadings providing duty-free treatment for various qualities of steel used in making aperture masks for cathode-ray tube video displays. (H.R. 1947)

53. Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.72.17 for L-shaped edges of spring steel for use in the manufacture of skis and snowboards (provided for in heading 7217.10.90) as temporarily free of duty. (H.R. 1889)

54. Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.32.28 for Tannic acid (CAS No. 1401–55)(provided for in subheading 3201.90.10.00) as temporarily duty free. (H.R. 1931)

55. Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.39.04 for Tetrafluoroethylene, Hexafluoropropylene, and Vinylidene flouride (provided for in subheading 3904.69.50) as temporarily duty free. (H.R. 1893)

56. Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.32.04 for Benzene sulfonic acid,2,2′-((1,1′-biphenyl)-4,4′-diyldi-2.1-ethenediyl)bis-disodium salt (referred to as Tinopal CBS–X)(CAS No. 27344–41–8)(provided for in heading 3204.20.80.00) as temporarily free of duty. (H.R. 1097)

57. Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.29.34 for 4-piperzone 2,2,6 tetramethyl (referred to as Triacetonamine)(CAS No. 826–36–8)(provided for in heading 2933.39.61) as temporarily free of duty. (H.R. 1887)

58. Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.38.08 for Methyl 2-[[[[[4-(dimethylamino)-6-(2,2,2-trifluoroethoxy)-1,3,5-triazin-2-yl]-amino]carbonyl]-amino]sulfonyl]-3-methylbenzoate (referred to as Triflusulfuron Methyl)(CAS No. 126–535–15–7)(provided for in heading 3808.30.15) as temporarily free of duty. (H.R. 1879)

59. Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902.54.03 for artificial filament yarn (other than sewing thread) of viscose rayon (provided for in subheading 5403.10.30, 5403.31.00, or 5403.32.00) as temporarily free of duty. (H.R. 1742)

60. Amend chapter 99, subchapter II of the HTS by inserting a new heading 9902 for viscose rayon yarn with a twist exceeding 120 turns/m (provided for in subheading 5403.32.00) as temporarily free of duty. (H.R. 1888)

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Any person or organization wishing to submit a written statement for the printed record should submit at least six (6) single space legal size copies of their statement, along with an IBM compatible 3.5-inch diskette in ASCII DOS Text format only, with their name, address and comments date noted on label, by the close of business, Friday, August 15, 1997, to A.L. Singleton, Chief of Staff, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515.

FORMATTING REQUIREMENTS:

Each statement presented for printing to the Committee by a witness, any written statement or exhibit submitted for the printed record or any written comments in response to a request for written comments must conform to the guidelines listed below. Any statement or exhibit not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All statements and any accompanying exhibits for printing must be typed in single space on legal-size paper and may not exceed a total of 10 pages including attachments. At the same time written statements are submitted to the Committee, witnesses are now requested to submit their statements on an IBM compatible 3.5-inch diskette in ASCII DOS Text format.

2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material

not meeting these specifications will be maintained in the Committee files for review and use by the Committee.

3. A witness appearing at a public hearing, or submitting a statement for the record of a public hearing, or submitting written comments in response to a published request for comments by the Committee, must include on his statement or submission a list of all clients, persons, or organizations on whose behalf the witness appears.

4. A supplemental sheet must accompany each statement listing the name, full address, a telephone number where the witness or the designated representative may be reached and a topical outline or summary of the comments and recommendations in the full statement. This supplemental sheet will not be included in the printed record.

The above restrictions and limitations apply only to material being submitted for printing. Statements and exhibits or supplementary material submitted solely for distribution to the Members, the press and the public during the course of a public hearing may be submitted in other forms.

Note: All Committee advisories and news releases are available on the World Wide Web at "http://www.house.gov/ways__means/".

Proposed Miscellaneous Corrections #1

To amend 19 U.S.C. 1515(a) to provide that within 30 days from the date an application for further review is filed, the appropriate customs officer shall allow or deny the application and, if allowed, forward the protest to the customs officer who will be conducting the further review.

Comments of the American Association of Exporters and Importers (AAEI)

The American Association of Exporters and Importers' (AAEI) over 1000 members export, import, distribute and manufacture a complete spectrum of products, including chemicals, electronics, machinery, footwear, autos/parts, food, household consumer goods, toys, specialty items, textiles and apparel. Members also include firms which serve the international trade community, such as customs brokers, freight forwarders, banks, attorneys, insurance firms and carriers. AAEI members conduct operations in all fifty states, employing millions of U.S. workers. Together, AAEI companies account for a large majority of non-military, commercial U.S. trade.

AAEI is pleased to respond to Chairman Crane's June 30, 1997 Advisory, requesting comments on Miscellaneous Corrections to Trade Legislation and Miscellaneous Duty Suspension Bills:

PROPOSED MISCELLANEOUS CORRECTION #1

Amendment of 19 USC § 1515(a)—a concomitant amendment should be made to § 1515(c), requiring the Commissioner of Customs to act within 30 days (rather than 60) to review a request to set aside the denial of further review.

PROPOSED MISCELLANEOUS CORRECTION #11

The three annual reports (Violations Estimate Report, Enforcement Strategy Report and Merchandise Damaged Statistics) provided by Customs to Congress which are proposed to be eliminated provide valuable information to the importing community. AAEI asks that they be retained.

AAEI thanks you for the opportunity to submit its comments.

CUSTOMS AND INTERNATIONAL TRADE BAR ASSOCIATION
NEW YORK, NEW YORK 10016
August 14, 1997

A.L. Singleton, Chief of Staff
Committee on Ways and Means,
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Miscellaneous Corrections to Trade Legislation and Miscellaneous Duty Suspension Bills

Dear Mr. Singleton:

These comments are submitted on behalf of the Customs and International Trade Bar Association ("CITBA") in response to the invitation of the Subcommittee on Trade, House Ways and Means Committee, issued on June 30, 1997 (No. TR–10). CITBA is a national bar association of over 400 lawyers whose primary law practice involves the federal tariff, revenue and international trade laws. The member lawyers devote a substantial amount of their time in the representation of the importing community as well as domestic producers and other domestic interests.

While, after review, CITBA supports the efforts and the aims to be effected by the Proposed Miscellaneous Corrections, comments about certain proposals are necessary. These comments are directed to certain specific proposals; however, we support the proposals, generally, where no comment has been proffered.

PROPOSED MISCELLANEOUS CORRECTIONS:

1. The first proposal would amend 19 U.S.C. § 1515(a) to provide that within 30 days following the filing of an application for further review, the appropriate customs officer shall allow or deny the application and, if allowed, shall forward the accompanying protest to the customs officer conducting the further review. Thus, a denial of the application for further review means that the first echelon customs officer will deny the request and the protest and will not forward the application to the next level of review. The first echelon customs officer may grant the application for further review even though the customs officer may oppose the requested relief.

CITBA is concerned that the 30 day period may not be sufficient to provide a meaningful review of the contentions and issues presented by the application for further review. For example, if the time pressures experienced are such as to prevent the customs officer from conducting a meaningful review within the prescribed 30 day period, the application and its accompanying protest may be denied out of hand in order to comply with the proposed statutory requirements. If a denial occurs in such circumstances, the protesting applicant must commence a civil action in the U.S. Court of International Trade without any administrative review.

CITBA urges that the time within which the first appropriate customs officer may review an application for further review before the customs officer must allow or deny the application be set at 60 days. With more time, the chances of a meaningful review of an application increase.

Further, this proposal suggests that the appropriate customs officer at the port of entry would be granted a statutory authority to deny, for any reason, the protestant's application for further review by the Customs Service Headquarters as one of the options that the customs officer at the port must exercise within the time prescribed in the statutory proposal. We assume that the intent of this proposal is to define the time in which action on the application for further review shall be accomplished and that a grant of authority to deny such an application and thereby prevent further review of the protest by the Customs Service Headquarters is not intended by this proposal. Therefore, the proposal should be amended to make clear that the customs officers at the port of entry may not deny the protestant's application (and right) to further review by the Customs Service Headquarters. Alternatively, if the customs officers at the port of entry are to be granted any authority to dispose of an application for further review before any Headquarters review, that authority should be limited to a rejection of the application for non-substantive, procedural issues, without denying the protest, to allow the applicant to cure the objection.

2. The second proposal would require the Commissioner of Customs to give not less than 30 days notice for changes in the customs regulations, except where excessive costs would be incurred or in the case of an emergency.

CITBA notes that the Administrative Procedures Act provides for timely public notice for changes in the customs regulations which constitute rule-making. Therefore, this proposal appears to be redundant. In any event, a 30 day notice time period for changes to the customs regulations is normally insufficient.

3. The third proposal would change the special accounting and attribution rules for drawback on certain petroleum products under section 313 of the Tariff Act of 1930, as amended by NAFTA [P.L. 103–182]. The NAFTA provision was designed to allow the accounting for drawback purposes for certain petroleum products on a quantitative basis. Since the Customs Service, in interpreting section 313(p)(2)(iv) regarding substitution drawback, requires the tracing of molecules, correction is proposed to assure that the appropriate petroleum products are tracked on a quantitative basis.

The fourth proposal add a new subsection (q) to section 313 which would allow drawback for U.S. produced packaging materials if used by "filling" prior to exportation by the manufacturer of the packaging materials or any other person to package articles to be exported or destroyed. This amendment would change the current Customs practice which limits eligibility for drawback on the exportation or destruction of the packaging materials to the manufacturer of such materials.

CITBA supports both proposed technical corrections since they assert the original Congressional intent to allow the payment of drawback for U.S. packaging materials used by anyone to package eligible articles for exportation or destruction.

4. With respect to some proposals, such as seventh proposal relating to public disclosure of manifest information, CITBA takes no position because of a lack of consensus.

Very truly yours,

RUFUS E. JARMAN, JR.
President
BERNARD J. BABB
Chairman, Committee on Customs and Tariffs

REJ/BJB/b

Comments of Terence P. Stewart, On Behalf of the Law Firm of Stewart and Stewart

A. INTRODUCTION

The following written comments are submitted by Terence P. Stewart on behalf of the law firm of Stewart and Stewart in response to the Subcommittee on Trade's request for written comments regarding proposed miscellaneous corrections to trade legislation. See Ways and Means Committee Advisory (TR–10) dated June 30, 1997. Stewart and Stewart is a firm with a long and rich experience in trade and customs matters. In the following comments, we support proposed measures 1, 2, and 10 because we believe they will improve Customs operations and service to the trading community. We oppose proposed measures 7 and 11 because we believe they will undermine service to the trading community, limit transparency, and restrict public disclosure of vital trade information.

B. PROPOSED CORRECTION NO. 1: AMENDMENT TO 19 U.S.C. 1515(A)

19 U.S.C. § 1515(a) provides that Customs shall, within two years from the date a protest is filed, accept or deny the protest in whole or in part. That subsection also provides that a protesting party may, within the time allowed for the filing of a protest under 19 U.S.C. § 1514, request that the protest be subject to further review by another appropriate Customs officer. The current statute does not require Customs to accept or deny the application for further review within a prescribed time period.

The first proposed correction would amend 19 U.S.C. § 1515(a) to provide that within 30 days from the date that a protesting party files its application for further review, the appropriate Customs officer shall allow or deny the application, and, if allowed, forward the protest to the Customs officer that will conduct the further review.

Stewart and Stewart supports the apparent goal of this proposal, that is, to provide adequate time for a meaningful further review of a protest. However, a requirement that Customs act on the request for further review within 30 days may effectively preclude substantive review of the protest at the port level. At present, the statute allows Customs two years to act upon a protest, whether or not a request for further review is filed. Thus, even where a protesting party files a protest and a timely request for further review, Customs is not obligated to respond to the request for further review at any time before the two year period for protest disposition expires. Although the proposed amendment would expedite Customs' decision with respect to the application for further review, thus allowing the Customs officer conducting further review sufficient time within the two year period to review the protest, such a short period as 30 days allowed to the port for its initial review of the protest may preclude anything but a superficial review by the port. Stewart and Stewart supports an amendment that would improve the efficient handling of customs protests but also would ensure that sufficient time is allowed, within the two year period, for an adequate and meaningful review by both the port initially and by headquarters on further review.

C. Proposed Correction No. 2: 30 Days Notice for Change In Customs Regulations

The second proposal would require the Commissioner of Customs to provide no less than 30 days public notice for changes in customs regulations, except to avoid excessive costs or to meet emergency requirements of the Customs Service.

Stewart and Stewart supports this proposal. The requirement of 30 days notice to the public of changes in customs regulations is reasonable and would allow the trading community and general public adequate lead time to prepare for regulatory changes and comply with any new regulatory requirements.

Moreover, a 30-day public notice requirement comports with the Administrative Procedure Act's general rule that administrative agencies shall provide 30 days notice of rule making prior to the rule's effective date. 5 U.S.C. § 553(d) provides:

(d) The required publication or service of a substantive rule shall be made not less than 30 days before its effective date, except—

(1) a substantive rule which grants or recognizes an exemption or relieves a restriction;

(2) interpretive rules and statements of policy; or

(3) as otherwise provided by the agency for good cause found and published with the rule.

D. Proposed Correction No. 7: Public Disclosure of Vessel and Aircraft Manifest Information

19 U.S.C. § 1431(c) outlines the requirements, form, and content of manifest information which must be publicly disclosed. In the Anticounterfeiting and Consumer Protection Act of 1996 (P.L. 104–153, 110 Stat. 1389, July 2, 1996), Congress amended 19 U.S.C. § 1431(c)(1) to require public disclosure of certain information contained in vessel and aircraft manifests, and added additional requirements as to the content of those manifests. Thus, Congress amended section 1431(c)(1) of the statute to provide as follows:

(1) Except as provided in subparagraph (2), the following information, when contained in such vessel or aircraft manifest, shall be available for public disclosure:

(A) The name and address of each importer or consignee and the name and address of the shipper to such importer or consignee, unless the importer or consignee has made a biennial certification, in accordance with procedures adopted by the Secretary of the Treasury, claiming confidential treatment of such information.

(B) The general character of the cargo.

(C) The number of packages and gross weight.

(D) The name of the vessel, aircraft, or carrier.

(E) The seaport or airport of loading.

(F) The seaport or airport of discharge.

(G) The country of origin of the shipment.

(H) The trademarks appearing on the goods or packages.

19 U.S.C.S. § 1431(a)(1) (1997) (underscored text indicates language added by the amendment). Prior to amendment, the introductory language preceding subparagraph (A) had referred to "such manifest," without particularity as to type of manifest.

In contrast to the provisions of the Anticounterfeiting and Consumer Protection Act, section 3 of the Miscellaneous Trade and Technical Corrections Act of 1996 (P.L. 104–295, 101 Stat. 3515, Oct. 11, 1996) amended 19 U.S.C. § 1431(c)(1) as follows:

Section 431(c)(1) of the Tariff Act of 1930 (19 U.S.C. 1431(c)(1)) is amended in the matter preceding subparagraph (A) by striking "such manifest" and inserting "a vessel manifest."

Also, the Miscellaneous Trade and Technical Corrections Act did not provide for any additional requirements as to manifest content.

There is an apparent conflict between the manifest disclosure and reporting requirements of the Anticounterfeiting and Consumer Protection Act of 1996 and the provisions of the Miscellaneous Trade and Technical Corrections Act of 1996 with respect to section 1431(c)(1). The Committee's Advisory (TR–10) states that "given the potentially conflicting interpretations of these laws, legislation may be needed to clarify that the language in the Miscellaneous Trade and Technical Corrections Act reflects Congressional intent." Stewart and Stewart opposes such clarification.

Stewart and Stewart strongly supports the manifest disclosure and reporting requirements enacted by Congress in the Anticounterfeiting and Consumer Protection Act of 1996. We urge the Committee to endorse the vessel and aircraft manifest disclosure and reporting requirements provided in the Anticounterfeiting and Consumer Protection Act and to clarify that those provisions, not the language in the Miscellaneous Trade and Technical Corrections Act, express the intent of Congress.

In the legislative history to the Anticounterfeiting and Consumer Protection Act of 1996, Congress explained the purpose and necessity for requiring public disclosure of aircraft manifest information:

This section amends section 431(c)(1) of the Tariff Act to permit public disclosure of aircraft manifests under the same terms currently allowed for sea shipments. Under current law, the U.S. Customs Service routinely discloses information relating to the nature of shipments imported by sea. This information has proven to be extremely valuable to U.S. trademark holders who are trying to trace or interdict the entry of counterfeit goods.

Additional authority is needed, however, to disclose the same information for shipments by air. Since most low-weight, high value counterfeits are shipped by air, trademark holders need access to air shipment data as well as sea shipment data if they are to be able to better assist enforcement officials in identifying counterfeiters and stopping the flow of fraudulent goods transported in this manner. Moreover, this provision eliminates the unwarranted and out-of-date distinction between information required about goods shipped by sea as compared to goods shipped by air.

S. Rep. No. 104–177, 104th Cong., 1st Sess. 11 (1995).

Given such a clear and emphatic statement of Congressional purpose and intent, a "clarification" such as that proposed would not "reflect" Congressional intent but negate and undermine it. The Committee should not allow a "technical" amendment provision to override the plain language of the Anticounterfeiting and Consumer Protection Act and the expressed will of Congress.

As the Senate Judiciary Committee report observed, there is no valid reason for distinguishing between vessel and aircraft manifests with respect to the requirements of public disclosure of their contents. See S. Rep. No. 104–177 at 11. There are, however, compelling reasons for imposing the same public disclosure requirements on both vessel and aircraft manifests. As the Senate report noted, counterfeit goods often are transported to the United States by aircraft. Id. As such, lack of public disclosure of aircraft manifest information hampers the ability of trademark holders to monitor trade in counterfeit goods and assist enforcement of their trademark rights.

Moreover, public access to information contained in aircraft manifests in addition to vessel manifests permits domestic industries to monitor imports of unfairly-traded merchandise. For example, without access to aircraft manifest information, domestic producers are incapable of monitoring imports of merchandise that is subject to antidumping or countervailing duty orders and that is routinely transported to the United States by aircraft (e.g., flowers). The requirement of public disclosure of aircraft manifest information addresses this problem as well as the problem of counterfeit goods.

Finally, as the Senate report acknowledged, there is simply no logical reason for treating vessel and aircraft manifest information differently. The Anticounterfeiting and Consumer Protection Act amendment was intended to "eliminate the unwarranted and out-of-date distinction" between vessel and aircraft manifests. S. Rep. No. 104–177 at 11. Endorsement of the language of the Miscellaneous Trade and Technical Corrections Act, however, would reimpose this "unwarranted and out-of-date distinction." Accordingly, we urge the Committee to reject legislative proposal No. 7.

E. Proposed Correction No. 10: Use of Customs Protest Procedures for NAFTA Preference Claims

Proposal No. 10 would amend 19 U.S.C. § 1514(a) to clarify that importers may employ customs protest procedures to obtain refunds of excess duties paid on the entry of goods that qualify for NAFTA preference. Stewart and Stewart supports this proposal. The statute clearly provides that both the protest procedure pursuant to 19 U.S.C. § 1514 and the procedure provided in 19 U.S.C. § 1520(d) are available to importers as means to obtain refunds of excess duties paid on NAFTA-eligible goods.

As explained in the Committee's Advisory (TR–10), it is a violation of law for an importer to claim a NAFTA preference without first obtaining a valid certificate of origin from the exporter. However, because importers are often unable to obtain a certificate of origin before entry of the goods, they must file NAFTA preference claims after entry once a valid certificate of origin has been acquired. In cases where Customs liquidates the entry before the importer has obtained the certificate of orign and filed for NAFTA preference, importers have attempted to obtain refunds of excess duties paid on entry by filing protests under 19 U.S.C. § 1514. Customs position, however, is that importers may obtain refunds of excess duties paid on goods qualifying for NAFTA preference only under 19 U.S.C. § 1520(d), not under 19 U.S.C. § 1514. The proposed amendment would clarify that customs protest procedures under section 1514 are available to importers as a means to obtain refunds of excess duties paid on goods eligible for NAFTA preference.

19 U.S.C. § 1514(a) provides that the decisions of the Customs Service as to classification, amount of duties chargeable, etc. are final and conclusive unless a protest is filed within 90 days of liquidation. The language of section 1514 does not restrict the right of importers to file protests with respect to Customs decisions regarding goods eligible for NAFTA preference.

19 U.S.C. § 1520(d) provides that:

Notwithstanding the fact that a valid protest was not filed, the Customs Service may ... reliquidate an entry to refund excess duties paid on a good qualifying under the [NAFTA] rules of origin ... for which no claim for preferential tariff treatment was made at the time of importation if the importer, within 1 year after the date of importation, files ... a claim that includes—

(1) a written declaration that the good qualified under those rules at the time of importation;

(2) copies of all applicable NAFTA Certificates of Origin ...;

(3) such other documentation relating to the importation of the goods as the Customs Service may require. [Emphasis added]

It is evident from the introductory clause of subsection 1520(d)—"Notwithstanding the fact that a valid protest was not filed"—that the filing of protests to obtain refunds of excess duties paid on NAFTA-eligible goods is contemplated by the statute. The procedure outlined in section 1520(d) is provided in addition to the protest procedure under section 1514 as a means for importers to obtain refunds of excess duties paid of goods that qualify for NAFTA preference. Clearly, Customs interpretation that importers are restricted to the procedure prescribed in section 1520(d) conflicts with the plain language of that provision and section 1514.

F. Proposed Correction No. 11: Customs Reports to Congress

Present law requires the Commissioner of the Customs Service to submit the following three reports to Congress on an annual basis:

(1) Violation Estimates Report—19 U.S.C. § 2083(a) requires that no later than 30 days before the fiscal year begins, the Commissioner shall submit a report estimating "the number and extent of violations of the trade, customs, and illegal drug control laws ... that will likely occur during the fiscal year" and the "relative incidence of violations estimated ... among the various ports of entry."

(2) Enforcement Strategy Report—19 U.S.C. § 2083(c) requires that, within 90 days after submitting the Violation Estimates Report, the Commissioner shall submit a report detailing a "nationally uniform enforcement strategy" for dealing with the estimated violations.

(3) Merchandise Damaged Statistics—19 U.S.C. § 2071 (note) requires that the Commissioner shall keep accurate statistics on the incidence, nature, and extent of damage to merchandise resulting from customs examinations and shall submit an annual report summarizing such statistics.

Proposed Correction No. 11 would amend 19 U.S.C. § 2083(a) and (c) as well as 19 U.S.C. § 2071 to eliminate the requirement that Customs submit each of the three annual reports outlined above.

Stewart and Stewart opposes this proposed change. These annual reports provide information that is vital to the enforcement of the nation's trade, customs, and illegal drug control laws and to Congress' effective oversight of the Customs Service, as well as contributing to the valuable goal of an informed trading public. The current requirements that Customs submit these annual reports should be maintained and Customs should comply with Congress' mandate.

Proposed Miscellaneous Corrections #2

To require the Commissioner of Customs to provide no less than 30 days public notice for changes in regulations, except to avoid excessive costs or to meet emergency requirements of the Customs Service.

see Customs and International Trade Bar Association under Proposed Miscellaneous Corrections #1

see Stewart and Stewart under Proposed Miscellaneous Corrections #1

Proposed Miscellaneous Corrections #3

Section 313 of the Tariff Act of 1930 (19 U.S.C. 1313) was amended by the North American Free Trade Agreements (NAFTA) Implementation Act [P.L. 103–182] to provide special accounting and attribution rules for drawback on petroleum products. The provision was to allow the petroleum industry to account for selected petroleum products on a quantitative basis, relieving Customs and industry from the problem of "tracking molecules" for the attribution of drawback. However, Customs current interpretation of 19 U.S.C. (p)(2)(a)(iv) relating to substitution drawback for finished petroleum derivatives requires companies to track delivery of the actual imported petroleum in possession of the exporter, in effect requiring the tracing of molecules. The proposed amendment would clarify the original intention of the Customs Modernization Act that selected petroleum products should be tracked on a quantitative basis for purposes of substitution drawback.

see also Customs and International Trade Bar Association under Proposed Miscellaneous Corrections #1

AECTRA REFINING & MARKETING, INC.
HOUSTON, TEXAS 77056
August 13, 1997

The Honorable Philip M. Crane
Chairman
Subcommittee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

In response to your June 30, 1997 request for comments on miscellaneous trade proposals, Aectra Refining & Marketing, Inc. wishes to express our strong support for Item 3, relating to the accounting and attribution rules for duty drawback on petroleum products.

This issue was addressed in detail as part of the Customs Modernization Act, enacted several years ago. That law provided special accounting rules to allow the petroleum industry to account for selected petroleum products on a quantitative basis for purposes of duty drawback claims. Without that provision, in order to file certain drawback claims for product that is exported, companies like our own would have to track the actual molecules of certain petroleum derivatives as the product travels through a series of pipelines and tanks, commingled with like products from other sources. This, of course, would be an impossible accounting feat that in effect would prevent us from obtaining duty drawback for exports of many petroleum products.

We and others in the industry thought the Customs Modernization Act provision settled the matter once and for all. However, there appears to be confusion at Customs on how to implement this provision. Their apparent interpretation would once again require the "tracking of molecules" a result clearly not intended by the Customs Modernization Act. That is why the proposed technical correction in your June 30, 1997 press release is needed—to clarify the original intent of the Customs Modernization Act that selected petroleum products should be tracked on a quantitative basis for purposes of substitution drawback.

Thanks for your interest in this issue. We urge your Subcommittee to approve this proposal at the earliest opportunity.

Sincerely,

ANTHONY J. VOIGT
Treasurer

AMERICAN PETROLEUM INSTITUTE
WASHINGTON, DC 20005–4070
August 15, 1997

The Honorable Philip M. Crane
Chairman
Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, DC 20515

Dear Chairman Crane:

The American Petroleum Institute (API) represents over 350 companies involved in all aspects of the oil and gas industry, including exploration, production, transportation, refining, and marketing. Because petroleum products make up a significant part of the U.S. domestic and foreign trade, API and its members have extensive dealings with the U.S. Customs Service (Customs) on which they rely heavily for information and guidance. API strongly supports the proposed miscellaneous corrections to trade legislation as described in your advisory from the Committee on Ways and Means, Subcommittee on Trade, dated June 30, 1997, specifically item 3 which pertains to the accounting and attribution rules for duty drawback on petroleum products.

This issue was addressed in detail in Title VI—Customs Modernization, Section 632, of the North American Free Trade Agreement (NAFTA) Implementation Act [P.L. 103–182]. That law provided special rules to allow the petroleum industry to account for selected petroleum products on a quantitative basis for purposes of duty drawback claims. Without that provision, in order to file certain drawback claims for a product that is exported, our member companies would have to track the actual molecules of certain petroleum derivatives as the product travels through a series of pipelines and tanks, commingled with like products from other sources. This, of course, would be an impossible accounting feat that in effect would prevent us from obtaining duty drawback for exports of various petroleum products.

The need for a legislative correction stems from Customs' interpretation of 19 U.S.C. § 1313(p)(2)(a)(iv) which reads "purchased or exchanged, directly or indirectly, an imported qualified article from an importer in a quantity equal to or greater than the quantity of the exported article." Customs' interpretation that the "imported qualified article" cannot be an article of the same kind and quality as the imported qualified article, or any combination thereof, in order to qualify for drawback, violates the intent of the statute, in effect requiring the tracking of actual molecules which P.L. 103–182 intended to eliminate.

We believe that a technical amendment with the following language would correct this misinterpretation: § 1313(p)(2)(A)(iv) is amended to read as follows: "purchased or exchanged, directly or indirectly, from an importer, an imported qualified article, an article of the same kind and quality as the imported qualified article, or any combination thereof, equal to or greater than the quantity of the exported article."

Thank you for your interest in this issue. We urge your Subcommittee to approve this proposal at the earliest opportunity.

Sincerely,

CHARLES J. DIBONA
President

ARCO Chemical Company
Newton Square, Pennsylvania 19073–2387
August 13, 1997

The Honorable Philip M. Crane
Chairman, Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

In response to your June 30, 1997 request for comments on miscellaneous trade proposals, ARCO Chemical Company wishes to express our strong support for Item 3, relating to the accounting and attribution rules for duty drawback on petroleum products.

This issue was addressed in detail as part of the Customs Modernization Act, enacted several years ago. That law provided special accounting rules to allow the petroleum industry to account for selected petroleum products on a quantitative basis for purposes of duty drawback claims. Without that provision, in order to file certain drawback claims for export products, ARCO Chemical Company would have to track the actual molecules of certain petroleum derivatives as the product travels through a series of pipelines and tanks, commingled with like products from other sources. This would be a difficult accounting feat that in effect would prevent us from obtaining duty drawback for exports of many petroleum products.

We thought the Customs Modernization Act provision settled the matter once and for all. However, there appears to be confusion at Customs on how to implement this provision. Their apparent interpretation would once again require the "tracking of molecules"—a result clearly not intended by the Custom Modernization Act. That is why the proposed technical correction in your June 30, 1997 press release is needed—to clarify the original intent of the Customs Modernization Act that selected petroleum products should be tracked on a quantitative basis for purposes of substitution drawback.

Thank you for your interest with respect to this issue. We urge your subcommittee to approve this proposal at the earliest opportunity.

Sincerely,

Clarisse G. McCormick
Assistant Secretary

ARCO Products Company
Los Angeles, CA 90071–1406
August 14, 1997

The Honorable Philip M. Crane
Chairman
Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

In response to your June 30, 1997 request for comments on miscellaneous trade proposals, ARCO Products Company wishes to express our strong support for Item 3, relating to the accounting and attribution rules for duty drawback on petroleum products.

This issue was addressed in detail as part of the Customs Modernization Act, enacted several years ago. That law provided special accounting rules to allow the petroleum industry to account for selected petroleum products on a quantitative basis for purposes of duty drawback claims. Without that provision, in order to file certain drawback claims for product that is exported, companies like our own would have to track the actual molecules of certain petroleum derivatives as the product travels through a series of pipelines and tank, commingled with like products from other sources. This, of course, would be an impossible accounting feat that in effect would prevent us from obtaining duty drawback for exports of many petroleum products.

We and others in the industry thought the Customs Modernization Act provision settled the matter once and for all. However, there appears to be confusion at Customs on how to implement this provision. Their apparent interpretation would once again require the "tracking of molecules"—a result clearly not intended by the Customs Modernization Act. That is why the proposed technical correction in your June 30, 1997 press release is needed—to clarify the original intent of the Customs Modernization Act that selected petroleum products should be tracked on a quantitative basis for purposes of substitution drawback.

Thanks for your interest in this issue. We urge your Subcommittee to approve this proposal at the earliest opportunity.

Sincerely,

JANE ADAM
Managing Tax Counsel

ARCO Products is a Division of AtlanticRichfieldCompany

BASIS CLEARING, INC.
HOUSTON, TEXAS 77002
August 6, 1997

The Honorable Philip M. Crane
Chairman
Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, DC 20515

Dear Chairman Crane:

In response to your June 30, 1997 request for comments on miscellaneous trade proposals, Basis wishes to express our strong support for Item 3, relating to the accounting and attribution rules for duty drawback on petroleum products.

This issue was addressed in detail as part of the Customs Modernization Act, enacted several years ago. That law provided special accounting rules to allow the petroleum industry to account for selected petroleum products on a quantitative basis for purposes of duty drawback claims. Without that provision, in order to file certain drawback claims for product that is exported companies like our own would have to track the actual molecules of certain petroleum derivatives as the product travels through a series of pipelines and tanks, commingled with like products from other sources. This, of course, would be an impossible account feat that in effect would prevent us from obtaining duty drawback for exports of many petroleum products.

We and others in the industry thought the Customs Modernization Act provision settled the matter once and for all. However, there appears to be confusion at Customs on how to implement this provision. Their apparent interpretation would once again require the "tracking of molecules"—a result clearly not intended by the Customs Modernization Act. That is why the proposed technical correction in your June 30, 1997 press release is needed—to clarify the original intent of the Customs Modernization Act that selected petroleum products should be tracked on a quantitative basis for purposes of substitution drawback.

Thanks for your interest in this issue. We urge your Subcommittee to approve this proposal at the earliest opportunity.

Sincerely,

KENNETH J. STOCKEL
Controller

BASIS PETROLEUM, INC.
HOUSTON, TEXAS 77002
August 8, 1997

The Honorable Philip M. Crane
Chairman
Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, DC 20515

Dear Chairman Crane:

In response to your June 30, 1997 request for comments on miscellaneous trade proposals, Basis wishes to express our strong support for Item 3, relating to the accounting and attribution rules for duty drawback on petroleum products.

This issue was addressed in detail as part of the Customs Modernization Act, enacted several years ago. That law provided special accounting rules to allow the petroleum industry to account for selected petroleum products on a quantitative basis for purposes of duty drawback claims. Without that provision, in order to file certain drawback claims for product that is exported companies like our own would have to track the actual molecules of certain petroleum derivatives as the product travels through a series of pipelines and tanks, commingled with like products from other sources. This, of course, would be an impossible account feat that in effect would prevent us from obtaining duty drawback for exports of many petroleum products.

We and others in the industry thought the Customs Modernization Act provision settled the matter once and for all. However, there appears to be confusion at Customs on how to implement this provision. Their apparent interpretation would once again require the "tracking of molecules"—a result clearly not intended by the Customs Modernization Act. That is why the proposed technical correction in your June 30, 1997 press release is needed—to clarify the original intent of the Customs Modernization Act that selected petroleum products should be tracked on a quantitative basis for purposes of substitution drawback.

Thanks for your interest in this issue. We urge your Subcommittee to approve this proposal at the earliest opportunity.

Sincerely,

GEORGANNE HODGES
Assistant Controller

BP CHEMICALS INC.
CLEVELAND, OH 44128–2837
August 13, 1997

The Honorable Philip M. Crane
Chairman
Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

In response to your June 30, 1997 request for comments on miscellaneous trade proposals, BP Chemicals Inc. wishes to express our strong support for Item 3, relating to the accounting and attribution rules for duty drawback on petroleum products.

This issue was addressed in detail as part of the Customs Modernization Act, enacted several years ago. That law provided special accounting rules to allow the petroleum industry to account for selected petroleum products on a quantitative basis for purposes of duty drawback claims. Without that provision, in order to file certain drawback claims for product that is exported, companies like our own would have to track the actual molecules of certain petroleum derivatives as the product travels through a series of pipelines and tanks commingled with like products from other sources. This, of course, would be an impossible accounting feat that in effect would prevent us from obtaining duty drawback for exports of many petroleum products.

We and others in the industry thought the Customer Modernization Act provision settled the matter once and for all. However, there appears to be confusion at Customs on how to implement this provision. Their apparent interpretation would once again require the "tracking of molecules"—a result clearly not intended by the Customer Modernization Act. That is why the proposed technical correction in your June 30, 1997 press release is needed—to clarify the original intent of the Customs Modernization Act that selected petroleum products should be tracked on a quantitative basis for purposes of substitution drawback.

Thanks for your interest in this issue. We urge your Subcommittee to approve this proposal at the earliest opportunity.

Sincerely,

ANN CARTER
Customer Service Manager

BP OIL COMPANY
CLEVELAND, OH 44114
August 12, 1997

The Honorable Philip M. Crane
Chairman, House Subcommittee on Trade
Committee on Ways and Means
1102 Longworth House Office Building
Washington, D. C. 20515

Dear Chairman Crane:

I am responding to the Committee on Ways and Means Advisory dated 30 June 1997 wherein comments were requested regarding Miscellaneous Corrections to Trade Legislation and Miscellaneous Duty Suspension Bills.

BP Oil Company, an operating subsidiary of BP Exploration & Oil Inc., expresses its strong support for item #3 regarding accounting & attribution rules for drawback on petroleum products.

Accounting for petroleum products on a quantitative basis for substitution drawback purposes is consistent with the way the industry operates physically. This is to say that fungible products are commingled in storage tanks and pipelines. The "molecule" based tracking methodology espoused by Customs is impractical and results in no additional benefit to the U. S. Treasury. Indeed, molecule tracking only results in additional costs that will end up being passed on to the public.

We understand how Customs can interpret the vague, existing language to mean molecule tracking of drawback qualifying product, but we believe that it was not the intent of the drafters of the Customs Modernization Act to make things more complicated and costly. The technical corrections proposed by your Subcommittee Advisory No. TR–10 are needed to clarify matters.

We support the amendment to clarify the original intention of the Customs Modernization Act that selected petroleum products should be tracked on a quantitative basis for purposes of substitution drawback.

Thank you for the opportunity to comment.

Sincerely,

KEVIN M. CARR
Vice President Control & Administration

CARGILL/NORTHEAST PETROLEUM
BEVERLY, MA 01915–0790
August 13, 1997

The Honorable Philip M. Crane
Chairman
Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

In response to your June 30, 1997 request for comments on miscellaneous trade proposals, Cargill/Northeast Petroleum wishes to express our strong support for Item 3, relating to the accounting and attribution rules for duty drawback on petroleum products.

This issue was addressed in detail as part of the Custom Modernization Act, enacted several years ago. That law provided special accounting rules to allow the petroleum industry to account for selected petroleum products on a quantitative basis for purposes of duty drawback claims. Without that provision, in order to file certain drawback claims for product that is exported, companies like our own would have to track the actual molecules of certain petroleum derivatives as the product travels through a series of pipelines and tanks, commingled with like products from other sources. This, of course, would be an impossible accounting feat that in effect would prevent us from obtaining duty drawback for exports of many petroleum products.

We and others in the industry thought the Customs Modernization Act provision settled the matter once and for all. However, there appears to be confusion at Customs on how to implement this provision. Their apparent interpretation would once again require the "tracking of molecules"—a result clearly not intended by the Customs Modernization Act. That is why the proposed technical correction in your June 30, 1997 press release is needed—to clarify the original intent of the Customs Modernization Act that selected petroleum products should be tracked on a quantitative basis for purposes of substitution drawback.

Thanks for your interest in this issue. We urge your Subcommittee to approve this proposal at the earliest opportunity.

Sincerely,

BARB DUCAT
Controller

CHEVRON CHEMICAL COMPANY
U.S. CHEMICALS DIVISION
HOUSTON, TX 77010–3030
August 14, 1997

The Honorable Philip M. Crane
Chairman
Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington. D.C. 20515

Dear Chairman Crane:

In response to your June 30, 1997 request for comments on miscellaneous trade proposals, Chevron Chemical Company wishes to express its strong support for Item 3, relating to the accounting and attribution rules for duty drawback on petroleum and chemical products.

This issue was addressed in detail as part of the Customs Modernization Act, enacted several years ago. That law provided special accounting rules to allow the petroleum industry to account for selected petroleum products on a quantitative basis for purposes of duty drawback claims. Without that provision, in order to file certain drawback claims for product that is exported, companies like our own would have to track the actual molecules of certain petroleum derivatives as the product travels through a series of pipelines and tanks, commingled with like products from other sources. This, of course, would be an impossible accounting feat that in effect would prevent us from obtaining duty drawback for exports of many petroleum products.

We and others in the industry thought the Customs Modernization Act provision settled the matter once and for all. However, there appears to be confusion at Customs on how to implement this provision. Their apparent interpretation would once again require the "tracking of molecules"—a result clearly not intended by the Customs Modernization Act. That is why the proposed technical correction in your June 30, 1997 press release is needed—to clarify the original intent of the Customs Modernization Act that selected petroleum products should be tracked on a quantitative basis for purposes of substitution drawback.

Thanks for your interest in this issue. We urge your Subcommittee to approve this proposal at the earliest opportunity.

Sincerely

ROBERT E. KENNEDY
General Manager, Olefins

CHEVRON PRODUCTS COMPANY
CONCORD, CA 94524–2073
August 14, 1997

The Honorable Philip M. Crane
Chairman
Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

In response to your June 30, 1997 request for comments on miscellaneous trade proposals, Chevron Products Company wishes to express our strong support for Item 3, relating to the accounting and attribution rules for duty drawback on petroleum products.

This issue was addressed in detail as part of the Customs Modernization Act, enacted several years ago. That law provided special accounting rules to allow the petroleum industry to account for selected petroleum products on a quantitative basis for purposes of duty drawback claims. Without that provision, in order to file certain drawback claims for product that is exported, companies like our own would have to track the actual molecules of certain petroleum derivatives as the product travels through a series of pipelines and tanks, commingled with like products from other sources. This, of course, would be an impossible accounting feat that in effect would prevent us from obtaining duty drawback for exports of many petroleum products.

We and others in the industry thought the Customs Modernization Act provision settled the matter once and for all. However, there appears to be confusion at Customs on how to implement this provision. Their apparent interpretation would once again require the "tracking of molecules"—a result clearly not intended by the Customs Modernization Act. That is why the proposed technical correction in your June 30, 1997 press release is needed—to clarify the original intent of the Customs Modernization Act that selected petroleum products should be tracked on a quantitative basis for purposes of substitution drawback.

Thanks for your interest in this issue. We urge your Subcommittee to approve this proposal at the earliest opportunity.

Sincerely,

PAT E. YARRINGTON
Comptroller

CITGO PETROLEUM CORPORATION
TULSA, OK 74102–3758
August 13, 1997

A.L. Singleton
Chief of Staff
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, DC 20515

RE: June 30, 1997 Advisory from the Committee on Ways and Means, Miscellaneous Corrections to Trade Legislation.

Dear Mr. Singleton,

CITGO is a major refining, marketing and transportation company with 5,800 employees, 6 major manufacturing facilities, ownership of 52 marketing terminals and a product supplier to more than 14,000 branded gasoline stations. We also currently operate in five foreign trade zones, and thus have an ongoing relationship with the U.S. Customs Service.

CITGO was pleased to note that the Committee has included in their proposed miscellaneous corrections, a provision that is important to help provide clarity to U.S. Customs practice. Item 3 listed in the proposal will clarify the intention of the Customs Modernization Act that selected petroleum products should be tracked on a quantitative basis for purposes of substitution drawback. This provision is necessary to ensure that private industry and the government are working from the same rules. The provision recognizes the fungibility of petroleum products, a long time practice by all petroleum companies in the nation and an absolute necessity to supplying petroleum products throughout the nation.

The American Petroleum Institute has submitted language amending 1313(p)(2)(a)(iv) of the Customs Modernization Act that will correct current Customs interpretations of "qualified imported article." CITGO strongly supports this language, and urges that it be included in legislation reported out of the Committee. Thank you for your support.

Sincerely,

EZRA C. HUNT
Senior Vice President
Chief Financial Officer

CONOCO INC.
UPNA—LEVERAGED SERVICES
PONCA CITY, OK 74602
August 12, 1997

The Honorable Philip M. Crane
Chairman
Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington DC 20515

Dear Chairman Crane:

In response to your June 30, 1997 request for comments on miscellaneous trade proposals, Conoco Inc. wishes to express our strong support for Item 3, relating to the accounting and attribution rules for duty drawback on petroleum products.

This issue was addressed in detail as part of the Customs Modernization Act, enacted several years ago. That law provided special accounting rules to allow the petroleum industry to account for selected petroleum products on a quantitative basis for purposes of duty drawback claims. Without that provision, in order to file certain drawback claims for product that is exported, companies like our own would have to track the actual molecules of certain petroleum derivatives as the product travels through a series of pipelines and tanks, commingled with like products from other sources. This, of course, would be an impossible accounting feat that in effect would prevent us from obtaining duty drawback for exports of many petroleum products.

We and others in the industry thought the Customs Modernization Act provision settled the matter once and for all. However, there appears to be confusion at Customs on how to implement this provision. Their apparent interpretation would once again require the "tracking of molecules"—a result clearly not intended by the Customs Modernization Act. That is why the proposed technical correction in your June 30, 1997 press release is needed—to clarify the original intent of the Customs Modernization Act that selected petroleum products should be tracked on a quantitative basis for purposes of substitution drawback.

Thanks for your interest in this issue. We urge your Subcommittee to approve this proposal at the earliest opportunity.

Sincerely.

JAMES A. MCDONALD
Director—Excise Tax Division
UPNA—Leveraged Services

DELTA AIR LINES, INC.
HARTSFIELD ATLANTA INTERNATIONAL AIRPORT
ATLANTA, GEORGIA 30320
August 13, 1997

The Honorable Philip M. Crane
Chairman, Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, DC 30514

Dear Chairman Crane:

In response to your June 30, 1997 request for comments on miscellaneous trade proposals, Delta Air Lines, Inc. wishes to express our strong support for Item 3, relating to the accounting and attribution rules for duty drawback on petroleum products.

This issue was addressed in detail as part of the Customs Modernization Act, enacted several years ago. The law provided special accounting rules to allow the petroleum industry to account for selected petroleum products on a quantitative basis for purposes of duty drawback claims. Without that provision, in order to file certain drawback claims for product that is exported, companies like Delta would have to track the actual molecules of certain petroleum derivatives as the product travels through a series of pipelines and tanks, commingled with like products from other sources. This, of course, would be an impossible accounting feat that in effect would prevent us from obtaining duty drawback for exports of many petroleum products.

We and others in the industry thought the Customs Modernization Act provision settled the matter once and for all. However, there appears to be confusion at Customs on how to implement this provision. Their apparent interpretation would once again require the "tracking of molecules"—a result clearly not intended by the Customs Modernization Act. That is why the proposed technical correction in your June 30, 1997 press release is needed—to clarify the original intent of the Customs Modernization Act that selected petroleum products should be tracked on a quantitative basis for purposes of substitution drawback.

Thank you for your interest in this issue. We urge your Subcommittee to approve this proposal at the earliest opportunity.

Very truly yours,

THOMAS J. ROECK, JR.
Senior Vice President—Finance
and Chief Financial Officer

DOW CHEMICAL COMPANY
LAKE JACKSON, TX 77566

THE HONORABLE PHILIP M. CRANE
CHAIRMAN
SUBCOMMITTEE ON TRADE
HOUSE COMMITTEE ON WAYS AND MEANS
1102 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, D.C. 20515

DEAR CHAIRMAN CRANE:

IN RESPONSE TO YOUR JUNE 30,1997 REQUEST FOR COMMENTS ON MISCELLANEOUS TRADE PROPOSALS, THE DOW CHEMICAL COMPANY WISHES TO EXPRESS OUR STRONG SUPPORT FOR ITEM 3, RELATING TO THE ACCOUNTING AND ATTRIBUTION RULES FOR DUTY DRAWBACK ON PETROLEUM PRODUCTS.

THIS ISSUE WAS ADDRESSED IN DETAIL AS PART OF THE CUSTOMS MODERNIZATION ACT, ENACTED DECEMBER, 1993. THAT LAW PROVIDED SPECIAL ACCOUNTING RULES TO ALLOW THE PETROLEUM INDUSTRY TO ACCOUNT FOR SELECTED PETROLEUM PRODUCTS ON A QUANTITATIVE BASIS FOR PURPOSES OF DUTY DRAWBACK CLAIMS. WITHOUT THAT PROVISION, IN ORDER TO FILE CERTAIN DRAWBACK CLAIMS FOR PRODUCT THAT IS EXPORTED, COMPANIES LIKE OUR OWN WOULD HAVE TO TRACK THE ACTUAL MOLECULES OF CERTAIN PETROLEUM DERIVATIVES AS THE PRODUCT TRAVELS THROUGH A SERIES OF PIPELINES AND TANKS, COMINGLED WITH LIKE PRODUCTS FROM OTHER SOURCES. THIS, OF COURSE, WOULD BE AN IMPOSSIBLE ACCOUNTING FEAT THAT IN EFFECT WOULD PREVENT US FROM OBTAINING DUTY DRAWBACK FOR EXPORTS OF MANY PETROLEUM PRODUCTS.

WE AND OTHERS IN INDUSTRY THOUGHT THE CUSTOMS MODERNIZATION ACT PROVISION SETTLED THE MATTER ONCE AND FOR ALL. HOWEVER, THERE APPEARS TO BE CONFUSION AT CUSTOMS ON HOW TO IMPLEMENT THIS PROVISION. THEIR APPARENT INTERPRETATION WOULD ONCE AGAIN REQUIRE THE “TRACKING OF MOLECULES”—A RESULT CLEARLY NOT INTENDED BY THE CUSTOMS MODERNIZATION ACT. THAT IS WHY THE PROPOSED TECHNICAL CORRECTION IN YOUR JUNE 30,1997 PRESS RELEASE IS NEEDED—TO CLARIFY THE ORIGINAL INTENT OF THE CUSTOMS MODERNIZATION ACT THAT SELECTED PETROLEUM PRODUCTS SHOULD BE TRACKED ON A QUANTITATIVE BASIS FOR PURPOSES OF SUBSTITUTION DRAWBACK.

THANKS, FOR YOUR INTEREST IN THIS ISSUE. WE URGE YOUR SUBCOMMITTEE TO APPROVE THIS PROPOSAL AT THE EARLIEST OPPORTUNITY.

SINCERELY,

JOHN D. WILLIAMS JR.
IMPORT SERVICES MANAGER
080897

E.I. DU PONT DE NEMOURS AND COMPANY
WILMINGTON, DE 19898
August 14, 1997

The Honorable Philip M. Crane
Chairman
Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

In response to your June 30, 1997 request for comments on miscellaneous trade proposals, E. I. DuPont wishes to express our support for Item 3, relating to the accounting and attribution rules for duty drawback on petroleum products.

This issue was addressed in detail as part of the Customs Modernization Act, enacted several years ago. That law provided special accounting rules to allow the petroleum industry to account for selected petroleum products on a quantitative basis for purposes of duty drawback claims. Without that provision, in order to file certain drawback claims for product that is exported, companies would have to track the actual molecules of certain petroleum derivatives as the product travels through a series of pipelines and tanks, commingled with like products from other sources. This, of course, would be an impossible accounting feat that in effect would prevent the filing of duty drawback for exports of many petroleum products.

The Customs Modernization Act provision was intended to finally settle the matter. However, there now appears to be a difference in interpretation on how to implement this provision. Customs' apparent interpretation would once again require the "tracking of molecules"—a result clearly not intended by the Customs Modernization Act. That is why the proposed technical correction in your June 30, 1997 press release is needed—to clarify the original intent of the Customs Modernization Act that selected petroleum products should be tracked on a quantitative basis for purposes of substitution drawback.

Thanks for your interest in this issue. We request your Subcommittee to approve this proposal at the earliest opportunity.

Sincerely,

JANET S. KEMPF
DUTY DRAWBACK MANAGER

ENRON CORP.
WASHINGTON, D.C. 20006–4607
August 12, 1997

The Honorable Philip M. Crane
Chairman
Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, DC 20515

Attn: Mr. A.L. Singleton, Chief of Staff

Re: Customs Modernization Act—Drawback Clauses—Item 3

Dear Mr. Chairman:

Enron wishes to associate itself with others supporting the need to clarify that the original intent of the Customs Modernization Act was that selected petroleum products should be tracked on a quantitative basis for purposes of substitution drawback.

Therefore, we are submitting this statement of position as part of your record.

Sincerely,

E. JOSEPH HILLINGS
Vice President and General Manager—Federal Government Affairs

ENTEC POLYMERS, INC.
MAITLAND, FL 32751
August 7, 1997

The Honorable Philip M. Crane
Chairman
Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

In response to your June 30, 1997 request for comments on miscellaneous trade proposals, Entec Polymers, Inc. wishes to express our strong support for Item 3, relating to the accounting and attribution rules for duty drawback on petroleum products.

This issue was addressed in detail as part of the Customs Modernization Act, enacted several years ago. That law provided special accounting rules to allow the petroleum industry to account for selected petroleum products on a quantitative basis for purposes of duty drawback claims. Without that provision, in order to file certain drawback claims for product that is exported, companies like our own would have to track the actual molecules of certain petroleum derivatives as the product travels through a series of pipelines and tanks, commingled with like products from other sources. This, of course, would be an impossible accounting feat that in effect would prevent us from obtaining duty drawback for exports of many petroleum products.

We and others in the industry thought the Customs Modernization Act provision settled the matter once and for all. However, there appears to be confusion at Customs on how to implement this provision. Their apparent interpretation would once again require the "tracking of molecules"—a result clearly not intended by the Customs Modernization Act. That is why the proposed technical correction in your June 30, 1997 press release is needed—to clarify the original intent of the Customs Modernization Act that selected petroleum products should be tracked on a quantitative basis for purposes of substitution drawback.

Thanks for your interest in this issue. We urge your Subcommittee to approve this proposal at the earliest opportunity.

Sincerely,

DAVID J. DER HAGOPIAN
President

EXXON COMPANY, U.S.A.
HOUSTON, TEXAS 77252–2180
August 13, 1997

The Honorable Philip M. Crane
Chairman
Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

In response to your June 30, 1997 request for comments on miscellaneous trade proposals, Exxon Company U.S.A. wishes to express our strong support for Item 3, relating to the accounting and attribution rules for duty drawback on petroleum products.

This issue was addressed in detail as part of the Customs Modernization Act, enacted several years ago. That law provided special accounting rules to allow the petroleum industry to account for selected petroleum products on a quantitative basis for purposes of duty drawback claims. Without that provision, in order to file certain drawback claims for product that is exported, companies like our own would have to track the actual molecules of certain petroleum derivatives as the product travels through a series of pipelines and tanks, commingled with like products from other sources. This, of course, would be an impossible accounting feat that in effect would prevent us from obtaining duty drawback for exports of many petroleum products.

We and others in the industry thought the Customs Modernization Act provision settled the matter once and for all. However, there appears to be confusion at Customs on how to implement this provision. Their apparent interpretation would once again require the "tracking of molecules"—a result clearly not intended by the Customs Modernization Act. That is why the proposed technical correction in your June 30, 1997 press release is needed—to clarify the original intent of the Customs Modernization Act that selected petroleum products should be tracked on a quantitative basis for purposes of substitution drawback.

Thanks for your interest in this issue. We urge your Subcommittee to approve this proposal at the earliest opportunity.

Sincerely,

L. J. BERNIARD III
Coordinator

FINA OIL AND CHEMICAL COMPANY
DALLAS, TEXAS 75221–2159
August 12, 1997

The Honorable Philip M. Crane
Chairman
Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, DC 20515

Re: Fina Oil and Chemical Company's Response to Your June 30, 1997 Request for Comments on Miscellaneous Corrections to Trade Legislation—Item 3 relating to 19 USC 1313(p)(2(a)(iv) ("Item 3")

Dear Representative Crane:

Fina Oil and Chemical Company supports the passage of Item 3. Item 3 will continue to allow for the refund of duties that an importer pays to the U.S. Customs Service on certain petroleum products when similar products are exported. Item 3 clarifies and codifies the current practice and prevents the U.S. Customs Service from imposing unworkable accounting rules on companies that deserve and rely upon drawback.

To promote our nation's exports and economic well-being, Congress has long promoted programs to refund duties importers pay on certain products if those products are again exported (some of those programs are almost as old as our country). "Substitution" drawback allows for a duty refund on products of the same kind and quantity under 19 USC 1313(p). The exported product does not have to be the same exact article that was imported—an article of the same kind and quantity will do. Substitution drawback is particularly important for the petroleum industry because such products are moved through countless miles of pipes and commingled in common storage facilities with like products from various sources.

By passing 19 USC 1313(p)(2(a)(iv), and clarifying its reach in the Customs Modernization Act of 1993 ("Mod Act"), Congress allowed drawback claimants to use "quantitative" accounting to avoid the bureaucratic and accounting nightmare if a company had to directly track the disposition of imported petroleum products. As the legislative history makes clear, Congress was seeking to "permit the effective use of present law and substantially reduce paperwork for the industry and administrative costs for the Government." Congress did not worry that companies would abuse their drawback privileges because the Customs Service "will be able to ensure greater compliance through the use of enhanced penalty and informed compliance provisions" elsewhere in the Mod Act.

For several years now, the U.S. Customs Service abided by this clear congressional mandate, but now threatens to impose unwieldy and expensive administrative burdens on petroleum companies. This unanticipated and unneeded policy change will not make the substitution drawback program more secure, but will only result in needless paperwork, lost exports, and lost jobs.

Item 3 will ensure that this does not happen, and will make certain that companies continue to receive the duty refunds owed to them.

I welcome your questions and, if asked, will gladly supplement this comment with additional information.

Sincerely,

JIM BAILEY
Manager, Unbranded Fuels and Business Development,
Southeastern Business Unit, Fina Oil and Chemical Company

GALAXY ENERGY (U.S.A.), INC.
HOUSTON, TEXAS 77060

The Honorable Philip M. Crane
Chairman
Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

In response to your June 30, 1997 request for comments on miscellaneous trade proposals, Galaxy Energy (U.S.A.), Inc. wishes to express our strong supports Item 3, relating to the accounting and attribution rules for duty drawback on petroleum products.

This issue was addressed in detail as part of the Customs Modernization Act, enacted several years ago. That law provided special accounting rules to allow the petroleum industry to account for selected petroleum products on a quantitative basis for purposes of duty drawback claims. Without that provision, in order to file certain drawback claims for product that is exported, companies like our own would have to track the actual molecules of certain petroleum derivatives as the product travels through a series of pipelines and tanks, commingled with like products from other sources. This, of course, would be an impossible accounting feat that in effect would prevent us from obtaining duty drawback for exports of many petroleum products.

We and others in the industry thought the Customs Modernization Act provision settled the matter once and for all. However, there appears to be confusion at Customs on how to implement this provision. Their apparent interpretation would once again require the "tracking of molecules"—a result clearly not intended by the Customs Modernization Act. That is why the proposed technical correction in your June 30, 1997 press release is needed—to clarify the original intent of the Customs Modernization Act that selected petroleum products should be tracked on a quantitative basis for purposes of substitution drawback.

Thanks for your interest in this issue. We urge your Subcommittee to approve this proposal at the earliest opportunity.

Sincerely,

PAUL A. STRONG
Operations Manager

GEORGE E. WARREN CORPORATION, ENERGY
VERO BEACH, FLORIDA 32960–5518
August 7, 1997

The Honorable Philip M. Crane, Chairman
Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

In response to your June 30, 1997 request for comments on miscellaneous trade proposals, George E. Warren Corporation wishes to express our strong support for Item 3, relating to the accounting and attribution rules for duty drawback on petroleum products.

This issue was addressed in detail as part of the Customs Modernization Act, enacted several years ago. That law provided special accounting rules to allow the petroleum industry to account for selected petroleum products on a quantitative basis for purposes of duty drawback claims. Without that provision, in order to file certain drawback claims for product that is exported, companies like our own would have to track the actual molecules of certain petroleum derivatives as the product travels through a series of pipelines and tanks, commingled with like products from other sources. This, of course, would be an impossible accounting feat that in effect would prevent us from obtaining duty drawback for exports of many petroleum products.

We and others in the industry thought the Customs Modernization Act provision settled the matter once and for all. However, there appears to be confusion at Customs on how to implement this provision. Their apparent interpretation would once again require the "tracking of molecules"—a result clearly not intended by the Customs Modernization Act. That is why the proposed technical correction in your June 30, 1997 press release is needed—to clarify the original intent of the Customs Modernization Act that selected petroleum products should be tracked on a quantitative basis for purposes of substitution drawback.

Thanks for your interest in this issue. We urge your Subcommittee to approve this proposal at the earliest opportunity.

Sincerely,

JONATHAN W. TAYLOR
Treasurer

GEORGIA GULF CORPORATION
PLAQUEMINE, LA 70765–0629
August 8, 1997

The Honorable Philip M. Crane
Chairman
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

In response to your June 30, 1997 request for comments on miscellaneous trade proposals, Georgia Gulf Corporation wishes to express our strong support for Item 3, relating to the accounting and attribution rules for duty drawback on petroleum products.

This issue was addressed in detail as part of the Customs Modernization Act, enacted several years ago. That law provided special accounting rules to allow the petroleum industry to account for selected petroleum products on a quantitative basis for purposes of duty drawback claims. Without that provision, in order to file certain drawback claims for product that is exported, companies like our own would have to track the actual molecules of certain petroleum derivatives as the product travels through a series of pipelines and tanks, commingled with like products from other sources. This, of course, would be an impossible accounting task that in effect would prevent us from obtaining duty drawback for exports of many petroleum products.

We and others in the industry thought the Customs Modernization Act provision settled the matter once and for all. However, there appears to be confusion at Customs on how to implement this provision. Their apparent interpretation would once again require the "tracking of molecules"—a result clearly not intended by the Customs Modernization Act. That is why the proposed technical correction in your June 30, 1997 press release is needed—to clarify the original intent of the Customs Modernization Act that selected petroleum products should be tracked on a quantitative basis for purposes of substitution drawback.

Thanks for your interest in this issue. We urge your Subcommittee to approve this proposal at the earliest opportunity.

Sincerely,

JANICE OWENS
Customs Administrator

cc: Will Hinson, Manager Legislative, Community & Public Affairs

GLOBAL PETROLEUM CORP.
WALTHAM, MA 02254–9161
August 6, 1997

The Honorable Philip M. Crane
Chairman
Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, DC 20515

Dear Chairman Crane:

In response to your June 30, 1997 request for comments on miscellaneous trade proposals, Global Petroleum Corp. wishes to express our strong support for Item 3, relating to the accounting and attribution rules for duly drawback on petroleum products.

This issue was addressed in detail as part of the Customs Modernization Act enacted several years ago. That law provided special accounting rules to allow the petroleum industry to account for selected petroleum products on a quantitative basis for purposes of duty drawback claims. Without that provision, in order to file certain drawback claims for product that is exported, companies would have to track the actual molecules of certain petroleum derivatives as the product travels through a series of pipelines and tanks, commingled with like products from other sources. Such tracking would be an impossible accounting feat that in effect would prevent us from obtaining duty drawback for exports of many petroleum products.

Global Petroleum Corp. thought the Customs Modernization Act provision settled the above-identified matter once and for all. However, there appears to be confusion at Customs on how to implement this provision. The apparent interpretation of Customs would once again require the "tracking of molecules"—a result clearly not intended by the Customs Modernization Act. The proposed technical correction in your June 30, 1997 press release is needed to clarify the original intent of the Customs Modernization Act that selected petroleum products should be tracked on a quantitative basis for purposes of substitution drawback.

Thank you for your interest in this issue. We urge your Subcommittee to approve this proposal at its earliest opportunity.

Very truly yours,

EDWARD J. FANEUIL
General Counsel

EJF/mdc

GULF COAST DRAWBACK SERVICES, INC.
KATY, TEXAS 77450

The Honorable Philip M. Crane
Chairman
Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

In response to your June 30, 1997 request for comments on miscellaneous trade proposals, Gulf Coast Drawback Services, Inc. wishes to express our strong support of Item 3, relating to the accounting and attribution rules for duty drawback on petroleum products.

This issue was addressed in detail as part of the Customs Modernization Act, enacted several years ago. That law provided special accounting rules to allow the petroleum industry to account for selected petroleum products on a quantitative basis for purposes of duty drawback claims. Without that provision, in order to file certain drawback claims for product that is exported, companies like our own would have to track the actual molecules of certain petroleum derivatives as the product travels through a series of pipelines and tanks, commingled with like products from other sources. This, of course, would be an impossible accounting feat that in effect would prevent us from obtaining duty drawback for exports of many petroleum products.

We and others in the industry thought the Customs Modernization Act provision settled the matter once and for all. However, there appears to be confusion at Customs on how to implement this provision. Their apparent interpretation would once again require the "tracking of molecules"—a result clearly not intended by the Customs Modernization Act. That is why the proposed technical correction in your June 30,1997 press release is needed—to clarify the original intent of the Customs Modernization Act that selected petroleum products should be tracked on a quantitative basis for purposes of substitution drawback.

Thanks for your interest in this issue. We urge your Subcommittee to approve this proposal at the earliest opportunity.

Sincerely,

BOBBY WAID
President

H. MUEHLSTEIN & COMPANY, INC.
NORWALK, CT 06854–1631
August 8, 1997

The Honorable Philip M. Crane
Chairman
Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, DC 20515

Dear Chairman Crane:

In response to your June 30, 1997 request for comments on miscellaneous trade proposals, H. Muehlstein & Company, Inc. wishes to express our strong support for Item 3, relating to the accounting and attribution rules for duty drawback on petroleum products.

This issue was addressed in detail as part of the Customs Modernization Act, enacted several years ago. That law provided special accounting rules to allow the petroleum industry to account for selected petroleum products on a quantitative basis for purposes of duty drawback claims. Without that provision, in order to file certain drawback claims for product that is exported, companies like our own would have to track the actual molecules of certain petroleum derivatives as the product travels through a series of pipelines and tanks, commingled with like products from other sources. This, of course, would be an impossible accounting feat that in effect would prevent us from obtaining duty drawback for exports of many petroleum products.

We and others in the industry thought the Customs Modernization Act provision settled the matter once and for all. However, there appears to be confusion at Customs on how to implement this provision. Their apparent interpretation would once again require the "tracking of molecules"—a result clearly not intended by the Customs Modernization Act. That is why the proposed technical correction in your June 30, 1997 press release is needed—to clarify the original intent of the Customs Modernization Act that selected petroleum products should be tracked on a quantitative basis for purposes of substitution drawback.

Thanks for your interest in this issue. We urge your Subcommittee to approve this proposal at the earliest opportunity.

Sincerely,

JERRY J. JOHNSTON
Vice President

jw

HOUSTON MARINE SERVICES, INC.
HOUSTON, TEXAS 77007
August 6, 1997

The Honorable Philip M. Crane
Chairman
Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

In response to your June 30, 1997 request for comments on miscellaneous trade proposals, Houston Marine Services wishes to express our strong support for Item 3, relating to the accounting and attribution rules for duty drawback on petroleum products.

This issue was addressed in detail as part of the Customs Modernization Act, enacted several years ago. That law provided special accounting rules to allow the petroleum industry to account for selected petroleum products on a quantitative basis for purposes of duty drawback claims. Without that provision, in order to file certain drawback claims for product that is exported, companies like our own would have to track the actual molecules of certain petroleum derivatives as the product travels through a series of pipelines and tanks, commingled with like products from other sources. This, of course, would be an impossible accounting feat that in effect would prevent us from obtaining duty drawback for exports of many petroleum products.

We and others in the industry thought the Customs Modernization Act provision settled the matter once and for all. However, there appears to be confusion at Customs on how to implement this provision. Their apparent interpretation would once again require the "tracking of molecules"—a result clearly not intended by the Customs Modernization Act. That is why the proposed technical correction in your June 30,1997 press release is needed—to clarify the original intent of the Customs Modernization Act that selected petroleum products should be tracked on a quantitative basis for purposes of substitution drawback.

Thanks for your interest in this issue. We urge your Subcommittee to approve this proposal at the earliest opportunity.

Sincerely,

JAMES S. RILEY, JR.
Vice President

Comments of the Independent Fuel Terminal Operators Association

The Independent Fuel Terminal Operator Association ("IFTOA") hereby submits these comments to the Subcommittee on Trade of the House Committee on Ways and Means in response to its "Request for Written Comments on Miscellaneous Corrections to Trade Legislation and Miscellaneous Duty Suspension Bills."

I. INTRODUCTION

IFTOA is an association of independent companies which own or control oil terminals, located along the East Coast from Maine to Florida, capable of receiving ocean-going tankers. Members are primarily importers, exporters and marketers of home heating oil, gasoline, and residual fuel oils at the wholesale and retail levels. As a result of their import and export activities, they participate at times in the duty drawback program. Accordingly, Members would be significantly affected by the recent debate between the petroleum industry and the U.S. Customs Service regarding the proper means of implementing "Substitution Duty Drawback" for refined petroleum products.

In 1990 and 1993, Congress adopted amendments addressing "Substitution Duty Drawback" consistent with a position of the petroleum industry: (1) the refunds would be based on exported volumes not exceeding the volumes imported, and (2) only a quantitative "match-up" of imported and exported material would be required. However, Customs has repeatedly interpreted the law in a more restrictive manner. Earlier this year Customs informally indicated that it may once again impose a restrictive interpretation. In response, the Association urges Congress to adopt a clarifying amendment to resolve the matter.

II. BACKGROUND

A. Duty Drawback

"Duty Drawback" is the procedure whereby 99 percent of duties paid on an imported entry may be refunded if the goods or a product made from the imported material are exported. 19 U.S.C. section 1313(a). "Substitution Duty Drawback" occurs when there is the exportation of a product that is of the same "kind and quality" as an imported product; in such a case, the exported product is substituted for the imported product, and the refund is permitted. In addition, the quantity of the exported product does not exceed that of the imported product. 19 U.S.C. section 1313(b).

B. Pre-1987 Practice

Prior to 1987, "Substitution Duty Drawback" permitted an exporter to qualify for a refund if, measured on a monthly basis, the exported petroleum products were of the same kind and quality and quantity of the imported petroleum products. Customs permitted the exporter to calculate exports from an entire tank farm operated as a single facility. Industry supported this interpretation and found compliance relatively easy.

C. 1987 Ruling

In 1987, Customs issued Customs Service Decision 88–1.[1] That ruling permitted "Substitution Duty Drawback" if exported product withdrawn from a single commingled tank on a monthly basis did not exceed the quantity of the imports. However, petroleum products commingled in separate tanks in a common storage facility were required to be accounted for on a daily and per tank basis pursuant to an acceptable accounting method such as "First In-First Out." The petroleum industry found this requirement to be too burdensome and seldom used the procedure.

D. 1990 Trade Act

In 1990, the petroleum industry urged Congress to amend the law to make clear that "Substitution Duty Drawback" could be used if (1) imported and exported goods of like kind and quality were substituted for one another; (2) the exported products did not quantitatively exceed the imported products; and (3) calculations for compliance purposes could be made on a monthly basis.

Pursuant to that request, Congress enacted Section 484A of the "Customs and Trade Act of 1990."[2] It embodied the industry position and was enacted after 18 months of negotiations among Congress, the industry and the U.S. Customs Service. However, Section 484A required that the product be commingled in a common facility, and industry members could not use the procedure for petroleum products stored at different facilities. Because petroleum products frequently are stored at a number of common storage facilities before reaching the point of export, the "common facility" requirement proved to be an obstacle, and the procedure fell into disuse.

E. 1993 Statute

Accordingly, in 1993 the petroleum industry again urged Congress to address the matter by adopting a revised or clarifying provision. Section 632(a)(6) of the North American Free Trade Agreement Implementation Act was designed to simplify the "Substitution Duty Drawback" procedure for petroleum.[3] It was intended to require that an exporter only match the quantity of his export with the quantity of the import of material of the same kind and quality.

However, the section was not precisely drafted. It provided that a drawback claim may be made for petroleum products exported in the same or greater quantity as a "qualified article" if the exporter:

(i) manufactured or produced the qualified article;

(ii) purchased or exchanged the qualified article from a manufacturer or producer;

(iii) imported the qualified article; or

[1] 22 Cust. B. & Dec. No. 307 (June 29, 1987).

[2] P.L. 101–382 (August 20, 1990).

[3] P.L. 103–182 (December 8, 1993).

(iv) purchased or exchanged, directly or indirectly, an imported qualified article from an importer.[4]

The "qualified article," as defined in subparagraph 3(A), must be either manufactured or produced in the United States or imported duty-paid.

III. Current Customs Interpretation

A. Subsection (A)(iv)

As indicated, in subparagraph (A)(iv) of the 1993 provision, unlike subparagraphs (i) through (iii), "qualified article" is described as an "imported qualified article." The U.S. Customs Service has informally indicated to industry that it may interpret this distinction as a requirement that the product imported by a person, other than the exporter, must be tracked and identifiable "molecule for molecule" when it is sold to the exporter. The exporter would then have the ability to substitute another product for exportation. Such an interpretation would be inconsistent with the statutory intent of the 1993 law. The legislative history makes clear that the 1993 amendment was designed to provide greater flexibility to industry when claiming duty drawback and to reduce paperwork for the industry and administrative costs for the government. Thus, while the language of the provision is not clear, the interpretation that Customs is considering would negate the very purpose of the measure.

B. Retroactivity

In addition, Section 632(b) of the North American Free Trade Agreement Implementation Act provides for retroactive application of the petroleum drawback provisions to all claims filed or liquidated on or after January 1, 1988 and unliquidated, under protest or in litigation as of December 8, 1993. Industry representatives believe that Customs may take a restrictive position to prevent the expensive refund of duties over such a long period of time.

However, of particular concern is the applicability of Customs' restrictive interpretation on certain claims that may have already been paid. Under section 191.72 of the Customs regulations, an exporter can post a bond and have a duty drawback refund accelerated within three weeks of submitting the claim. Customs then takes additional time to finish processing the claim and may require repayment if it is not substantiated. Many exporters are currently receiving duty drawback money pursuant to this expedited procedure. If Customs were to apply its restrictive position retroactively to those claims, recipients would have to return the money to Customs. Indeed, it has been suggested that companies would even have to refund money from claims liquidated after December 8, 1993. In either case, claimants have relied in good faith on the intent of the law, and the economics of the numerous transactions would be undone, thereby creating financial hardship for those companies.

IV. Conclusion

Accordingly, the Independent Fuel Terminal Operators Association respectfully requests that Congress include a "Substitution Duty Drawback" amendment in any bill addressing "Miscellaneous Corrections to Trade Legislation." Such an amendment should provide a drawback mechanism based strictly on a "quantitative" basis: (1) the volume of exported product qualifying for the drawback refund could not exceed the volume of "qualified product" that was imported into the country; and (2) the petroleum industry would not have to trace the molecules of the imported product from the importer to the exporter. A quantitative provision would be a practical and commercially realistic means of applying the "Substitution Duty Drawback" provision.

The Association appreciates the opportunity to provide these comments and would be pleased to assist the Subcommittee on this issue.

Thank you very much.

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[4] 19 U.S.C. section 1313(p)(2)(A) (emphasis added).

ITOCHU INTERNATIONAL, INC.
HOUSTON, TEXAS 77057–3009
August 14, 1997

The Honorable Philip M. Crane
Chairman
Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, DC 20515

Dear Chairman Crane:

In response to your June 30, 1997 request for comments on miscellaneous trade proposals, ITOCHU International, Inc. wishes to express its strong support for Item 3, relating to the accounting and attribution rules for duty drawback on petroleum products.

This issue was addressed in detail as part of the Customs Modernization Act, enacted December 8, 1993. That law provided special accounting rules to allow the petroleum industry to account for selected petroleum products on a quantitative basis for purposes of duty drawback claims. Without that provision, in order to file certain drawback claims for product that is exported, companies like our own would have to track the actual molecules of certain petroleum derivatives as the product travels through a series of pipelines and tanks, commingled with like products from other sources. This, of course, would be an impossible accounting feat that in effect would prevent us from obtaining duty drawback for exports of many petroleum products.

We and others in the industry thought the Customs Modernization Act provision settled the matter once and for all. However, there appears to be confusion at Customs on how to implement this provision. Their apparent interpretation would once again require the "tracking of molecules"—a result clearly not intended by the Customs Modernization Act. That is why the proposed technical correction in your June 30, 1997 press release is needed—to clarify the original intent of the Customs Modernization Act that selected petroleum products should be tracked on a quantitative basis for purposes of substitution drawback.

Thanks for your interest in this issue. We urge your Subcommittee to approve this proposal at the earliest opportunity.

Sincerely,

HIDEAKI HIRAKO
General Manager

JBC INTERNATIONAL
WASHINGTON, D.C. 20006
August 15, 1997

Mr. A.L. Singleton
Chief of Staff
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office
Washington, D.C. 20515

Re: Comments on Proposed Miscellaneous Corrections to US Trade Laws

Dear Mr. Singleton:

On behalf of JBC International and a number of its clients, I wish to comment on several of the proposed miscellaneous corrections published in your release of June 30, 1997, No. TR–10. We offer our support for items 3, 4, 5, 7, 8, 9, and 10. We have no comment on the other items.

As an active participant in the development of the Customs Modernization Act (ModAct) and Chairman of the Industry Functional Advisory Committee for Customs matters, I have a keen interest in the facilitation of merchandise processing and rigorous enforcement of US trade laws. A number of these corrections remove ambiguities and confusion about the intention of NAFTA and the ModAct for the benefit of US Customs officials who are administering the law. For example, if a product is found to be eligible for NAFTA preference, it should enjoy all of the benefits of that eligibility, including exemption from the Merchandise Processing Fee.

On another item, confidential treatment of company information is becoming even more critical with the development of international automation. We fully support the Committee's efforts to clarify the language as outlined in the notice.

Lastly, all aspects of Customs clearance must come under a program of electronic filing. The issue of the progress of the implementation of the National Customs Automation Program is much bigger than foreign-trade zone filings. We are looking forward to working with the Committee and others in Congress and the Administration to expedite the development and implementation of the Customs Automated Environment.

We thank you for the opportunity to submit these comments. We are prepared to respond to any questions Committee members or staff may have about our views.

Sincerely,

JAMES B. CLAWSON

J.G. EBERLEIN & CO., INC.
NEW YORK, N.Y. 10006
August 14, 1997

Hon. Philip M. Crane, Chairman
House Ways & Means Subcommittee on Trade
1035 Longworth House Office Bldg.
Washington, D.C. 20515

Dear Chairman Crane:

We appreciate the opportunity to express our support for two of the technical trade proposals announced in your press release dated June 30, 1997.

ITEM 3—ACCOUNTING RULES FOR DRAWBACK ON PETROLEUM PRODUCTS

The Customs Modernization Act (P.L. 103–182) amended the drawback statute (19 U.S.C. Section 1313(p) to provide for special accounting and attribution rules for drawback on petroleum products. The purpose of the amendment was to permit the accounting of selected petroleum products on a "quantitative basis" rather than a molecule for molecule basis for attribution of substitution drawback thereby alleviating the arduous task of tracing molecules.

Since the enactment of the Customs Modernization Act, Customs has been giving inconsistent and conflicting signals on the implementation of this amendment. Customs now is apparently of the opinion that the actual imported petroleum must be tracked to the possession of the exporter, in effect, mandating the tracing of molecules under Section 1313(p)(2)(A)(iv). This interpretation is diametrically opposed to the intent of the statute, and furthermore is in direct conflict with Customs own written guidance procedures.

This technical amendment will serve to rectify Customs misinterpretation by providing the needed clarification as to the meaning of original provision and is revenue neutral.

ITEM 4—DRAWBACK ELIGIBLE CONTAINERS "FILLED" PRIOR TO EXPORTATION

This technical amendment is needed to clarify that drawback eligible containers manufactured in the United States will not be considered to have been "used" in the United States (and thereby disqualified for drawback) if, prior to exportation such containers are filled by someone other than the manufactures of such containers.

In general, drawback is allowable upon the exportation of articles manufactured in the United States with the use of imported materials, "provided that such articles have not been" used prior to exportation. A number of manufacturers in the United States produce packing containers with the use of imported materials. Recently, an issue has been raised by Customs as to whether the "filling" of the container prior to its exportation constitute a use of such container making it ineligible for drawback.

The Customs Modernization Act added a new subsection (q) to Section 313 of the Tariff Act providing for drawback on packaging materials under manufacturing or same condition drawback (subsections (a), (b), (c) or (j) of Section 313) where the packaging is “used” by filling with a substance prior to exportation.

However, in Customs Headquarters, Ruling 227276 dated April 7, 1997 restricts this provision to the filling of containers by the manufacturer of such containers. Customs interpretation of the statute is that the filling of a container by anyone other than the manufacturer of the container constitutes a disqualifying use and renders the container ineligible for drawback upon its exportation. Customs interpretation reverses its prior position (Customs Headquarters Ruling 225658 dated January 17, 1995) allowing drawback on containers regardless of who filled the container.

We are of the opinion that these results were unintended by the statute and constitute a major policy change.

This technical amendment would rectify this situation by providing that packing material may be used by the manufacturer or any other person prior to export and remain eligible for drawback.

This change is revenue neutral as it merely clarifies the intent of Congress in passing the Customs Modernization Act on this provision.

We respectfully request that your Subcommittee advance both these measures at the earliest possible time.

Very truly yours,

EDWARD P. DENNINGER, SR.
Executive Vice President

EPD,Sr.:pa

J.M. RODGERS CO., INC.
NEW YORK, NY 10006–1039
August 14, 1997

Committee on Ways and Means
U.S. House of Representatives

Dear Chairman Crane:

J. M. Rodgers Co., Inc. appreciates the opportunity to express our wholehearted support for two technical trade proposals included in your June 30 press release.

DRAWBACK-ELIGIBLE CONTAINERS “FILLED” PRIOR TO EXPORTATION

The first is item number 4, which would make a technical change in the drawbackstatute to clarify that drawback-eligible containers manufactured in the UnitedStates, will not be considered to have been “used” in the United States (and thereby disqualified for drawback) if, prior to exportation, such containers are filled by someone other than the manufacturer.

Generally, duty drawback is allowed upon the export of articles manufactured or produced within the U.S. with the use of imported materials, provided that those articles have not been used prior to exportation. A number of manufacturers throughout the United States produce packaging products (bottles, cartridges, etc.) made from imported materials. In recent years, the issue has arisen as to whether “filling” the container prior to its export constitutes a “use” of the article, which would make it ineligible for duty drawback.

To address this situation, the Customs Modernization Act added a new subsection (q) to Section 313 f the Tariff Act, specifically allowing drawback on packaging materials, under manufacturing or same condition drawback [subsections (a), (b), (c) or (j) of Section 313] where the packaging is “used” by filling with a substance prior to exportation.

However, a recent Customs ruling [Customs Headquarters Ruling 227276 of April 7, 1997] limits this provision only to “filling” of a container by the manufacturer of the container. According to Customs interpretation, filling of a container by anyone other than the manufacturer is a disqualifying “use” and, therefore, the container is not eligible for drawback upon export. Customs position reverses a prior ruling [Customs Headquarters Ruling 225658 f January 17, 1995] allowing drawback for the container or packaging material, regardless of who filled it.

J.M. Rodgers Co. Inc. believes that this result was unintended by Congress and represents a major change in policy. The proposed amendment in Item 4 of your press release would ameliorate the problem by providing that U. S.-produced packaging material may be “used” by the manufacturer or any other person and, thus, will remain eligible for duty drawback upon export. This is a non controversial change and one that is revenue-neutral, since it simply clarifies what Congress intended to accomplish in passing the Customs Modernization Act provision on this issue.

ACOUNTING RULES FOR DRAWBACK ON PETROLEUM PRODUCTS

The second proposal we support is Item 3 of the press release. The current drawback statute [19 U.S.C. Section 1313(p)] was amended by the Customs Modernization Act [P.L. 103–182] to provide special accounting and attribution rules for drawback on petroleum products. The purpose of the amended petroleum provisions was to allow the industry to account for selected petroleum products on a quantitative basis, relieving the industry from the impossible task of "tracing molecules" for the attribution of drawback.

Since passage of the Customs Modernization Act, Congress has given conflicting signals on how they will implement the provision. It now appears Customs will be taking the position that companies are required to track delivery of the actual Imported petroleum to the possession of the exporter, in effect requiring the tracing of molecules under Section 1313(p)(2)(A)(iv). This interpretation is flatly inconsistent with the intent of the statute, as well as with Customs' own interim guidance procedures.

The proposed technical change in Item 3 would remedy this situation, providing needed clarification as to the meaning of the original Customs Modernization provision. Again, this is a non controversial change in the accounting rules for attribution of duty drawback and is also revenue neutral.

J.M. Rodgers co. Inc. strongly supports both of these technical trade provisions and urge your subcommittee to advance both measures at the earliest opportunity.

Sincerely,

FRANK MCCARTHY
Vice President

LYONDELL PETROCHEMICAL COMPANY
HOUSTON, TEXAS 77253–3646
August 15, 1997

The Honorable Philip M. Crane
Chairman
Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

In response to your June 30, 1997, request for comments on miscellaneous trade proposals, Lyondell Petrochemical Company wishes to express our strong support for Item 3, relating to the accounting and attribution rules for duty drawback on petroleum products.

This issue was addressed in detail as part of the Customs Modernization Act, enacted several years ago. That law provided special accounting rules to allow the petroleum industry to account for selected petroleum products on a quantitative basis for purposes of duty drawback claims. Without that provision, in order to file certain drawback claims for product that is exported, companies like our own would have to track the actual molecules of certain petroleum derivatives as the product travels through a series of pipelines and tanks, commingled with like products from other sources. This, of course, would be an impossible accounting feat that in effect would prevent us from obtaining duty drawback for exports of many petroleum products.

We and others in the industry thought the Customs Modernization Act provision settled the matter once and for all. However, there appears to be confusion at Customs on how to implement this provision. Their apparent interpretation would once again require the "tracking of molecules"—a result clearly not intended by the Customs Modernization Act. That is why the proposed technical correction in your June 30, 1997, press release is needed—to clarify the original intent of the Customs Modernization Act that selected petroleum products should be tracked on a quantitative basis for purposes of substitution drawback.

Thank you for your interest in this issue. We urge your subcommittee to approve this proposal at the earliest opportunity.

Sincerely,

P. BETH MCCUTCHEON
General Tax Officer

JFA/mcs

cc: B. Wade-Gulf Coast Drawback Services

MAPCO ALASKA PETROLEUM, INC.
ANCHORAGE, ALASKA 99503–3960
August 7, 1997

The Honorable Philip M. Crane
Chairman
Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

In response to your June 30, 1997 request for comments on miscellaneous trade proposals, MAPCO Alaska Petroleum, Inc. wishes to express our strong support for Item 3, relating to the accounting and attribution rules for duty drawback on petroleum products.

This issue was addressed in detail as part of the Customs Modernization Act, enacted several years ago. That law provided special accounting rules to allow the petroleum industry to account for selected petroleum products on a quantitative basis for purposes of duty drawback claims. Without that provision, in order to file certain drawback claims for product that is exported, companies like our own would have to track the actual molecules of certain petroleum derivatives as the product travels through a series of pipelines and tanks, commingled with like products from other sources. This, of course, would be an impossible accounting feat that in effect would prevent us from obtaining duty drawback for exports of many petroleum products.

We and others in the industry thought the Customs Modernization Act provision settled the matter once and for all. However, there appears to be confusion at Customs on how to implement this provision. Their apparent interpretation would once again require the "tracking of molecules"—a result clearly not intended by the Customs Modernization Act. That is why the proposed technical correction in your June 30,1997 press release is needed—to clarify the original intent of the Customs Modernization Act that selected petroleum products should be tracked on a quantitative basis for purposes of substitution drawback.

Thanks for your interest in this issue. We urge your Subcommittee to approve this proposal at the earliest opportunity.

Sincerely,

RANDY M. NEWCOMER
President

RMN/kar

MATRIX MARINE FUELS, L.L.C.
HOUSTON, TEXAS 77213–6290

The Honorable Philip M. Crane
Chairman
Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

In response to your June 30, 1997 request for comments on miscellaneous trade proposals, Matrix Marine Fuels, L.L.C. wishes to express our strong support for

Item 3, relating to the accounting and attribution rules for duty drawback on petroleum products.

This issue was addressed in detail as part of the Customs Modernization Act, enacted several years ago. That law provided special accounting rules to allow the petroleum industry to account for selected petroleum products on a quantitative basis for purposes of duty drawback claims. Without that provision, in order to file certain drawback claims for product that is exported, companies like our own would have to track the actual molecules of certain petroleum derivatives as the product travels through a series of pipelines and tanks, commingled with like products from other sources. This, of course, would be an impossible accounting feat that in effect would prevent us from obtaining duty drawback for exports of many petroleum products.

We and others in the industry thought the Customs Modernization Act provision settled the matter once and for all. However, there appears to be confusion at Customs on how to implement this provision. Their apparent interpretation would once again require the "tracking of molecules"—a result clearly not intended by the Customs Modernization Act. That is why the proposed technical correction in your June 30,1997 press release is needed—to clarify the original intent of the Customs Modernization Act that selected petroleum products should be tracked on a quantitative basis for purposes of substitution drawback.

Thanks for your interest in this issue. We urge your Subcommittee to approve this proposal at the earliest opportunity.

Sincerely,

KIM M. IVY
Vice President, Finance

KMI/cdr

MIECO INC.
LONG BEACH, CA 90802–4828
August 8, 1997

The Honorable Philip M. Crane
Chairman
Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

In response to your June 30, 1997 request for comments on miscellaneous trade proposals, MIECO Inc. wishes to express our strong support for Item 3, relating to the accounting and attribution rules for duty drawback on petroleum products.

This issue was addressed in detail as part of the Customs Modernization Act, enacted several years ago. That law provided special accounting rules to allow the petroleum industry to account for selected petroleum products on a quantitative basis for purposes of duty drawback claims. Without that provision, in order to file certain drawback claims for product that is exported, companies like our own would have to track the actual molecules of certain petroleum derivatives as the product travels through a series of pipelines and tanks, commingled with like products from other sources. This, of course, would be an impossible accounting feat that in effect would prevent us from obtaining duty drawback for exports of many petroleum products.

We and others in the industry thought the Customs Modernization Act provision settled the matter once and for all. However, there appears to be confusion at Customs on how to implement this provision. Their apparent interpretation would once again require the "tracking of molecules"—a result clearly not intended by the Customs Modernization Act. That is why the proposed technical correction in your June 30,1997 press release is needed—to clarify the original intent of the Customs Modernization Act that selected petroleum products should be tracked on a quantitative basis for purposes of substitution drawback.

Thanks for your interest in this issue. We urge your Subcommittee to approve this proposal at the earliest opportunity.

Very truly yours,

RICHARD E. LOWELL
Director of Administration and Counsel

MILLENNIUM PETROCHEMICALS INC.
A MILLENNIUM CHEMICALS COMPANY
CINCINNATI, OH 45249
August 8, 1997

The Honorable Philip M. Crane
Chairman
Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

In response to your June 30, 1997 request for comments on miscellaneous trade proposals, Millennium Petrochemicals Inc. wishes to express our strong support for Item 3, relating to the accounting and attribution rules for duty drawback on petroleum products.

This issue was addressed in detail as part of the Customs Modernization Act, enacted several years ago. That law provided special accounting rules to allow the petroleum industry to account for selected petroleum products on a quantitative basis for purposes of duty drawback claims. Without that provision, in order to file certain drawback claims for product that is exported, companies like our own would have to track the actual molecules of certain petroleum derivatives as the product travels through a series of pipelines and tanks, commingled with like products from other sources. This, of course, would be an impossible accounting feat that in effect would prevent us from obtaining duty drawback for exports of many petroleum products.

We and others in the industry thought the Customs Modernization Act provision settled the matter once and for all. However, there appears to be confusion at Customs on how to implement this provision. Their apparent interpretation would once again require the "tracking of molecules"—a result clearly not intended by the Customs Modernization Act. That is why the proposed technical correction in your June 30, 1997 press release is needed—to clarify the original intent of the Customs Modernization Act that selected petroleum products should be tracked on a quantitative basis for purposes of substitution drawback.

Thanks for your interest in this issue. We urge your Subcommittee to approve this proposal at the earliest opportunity.

Sincerely,

HENLEY R. WEBB
Vice President and General Counsel

MONTELL USA, INC.
MONTELL POLYOLEFINS
WILMINGTON, DE 19850–5439
August 12, 1997

The Honorable Philip M. Crane
Chairman
Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

In response to your June 30, 1997 request for comments on miscellaneous trade proposals, Montell USA, Inc. wishes to express our strong support for Item 3, relating to the accounting and attribution rules for duty drawback on petroleum products.

This issue was addressed in detail as part of the Customs Modernization Act, enacted several years ago. That law provided special accounting rules to allow the petroleum industry to account for selected petroleum products on a quantitative basis for purposes of duty drawback claims. Without that provision, in order to file certain drawback claims for product that is exported, companies like our own would have to track the actual molecules of certain petroleum derivatives as the product travels through a series of pipelines and tanks, commingled with like products from other sources. This, of course, would be an impossible accounting feat that in effect would prevent us from obtaining duty drawback for exports of many petroleum products.

We and others in the industry thought the Customs Modernization Act provision settled the matter once and for all. However, there appears to be confusion at Customs on how to implement this provision. Their apparent interpretation would once again require the "tracking of molecules"—a result clearly not intended by the Customs Modernization Act. That is why the proposed technical correction in your June 30, 1997 press release is needed—to clarify the original intent of the Customs Modernization Act that selected petroleum products should be tracked on a quantitative basis for purposes of substitution drawback.

Thanks for your interest in this issue. We urge your Subcommittee to approve this proposal at the earliest opportunity.

Sincerely,

RANDALL W. SIMPSON
Supervisor—Transportation, Distribution & Fleet Systems/Services

CMAct
RWS:pk

NATIONAL COUNCIL ON INTERNATIONAL TRADE DEVELOPMENT (NCITD)
WASHINGTON, DC 20006
August 15, 1997

The Honorable Philip M. Crane
Chairman
Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, DC 20515

Dear Chairman Crane:

In response to your June 30, 1997 request for comments on the miscellaneous trade proposals, the National Council on International Trade Development (NCITD) wishes to express our strong support for Item 3, relating to the accounting and attribution rules for duty drawback on petroleum products.

This issue was addressed in detail as part of the Customs Modernization Act, enacted several years ago. The law provided special accounting rules to allow the petroleum industry to account for selected petroleum products on a quantitative basis for purposes of duty drawback claims. Without that provision, in order to file certain drawback claims for product that is exported, the companies in our association would be forced to track the actual molecules of certain petroleum derivatives as the product travels through a series of pipelines and tanks, commingled with like products from other sources. This, of course, would be an impossible accounting feat that would effectively prevent us from obtaining duty drawback for exports of many petroleum products.

The NCITD, and others involved with the industry, thought the Mod Act provision settled the matter once and for all. However, there appears to be confusion at Customs on how to implement this provision. Their apparent interpretation would once again require the "tracking of molecules"—a result clearly not intended by the Mod Act. For this reason, the proposed technical correction in your June 30, 1997 press release is needed to clarify the original intent of the Mod Act, that selected petroleum products should be tracked on a quantitative basis for purposes of substitution drawback.

We thank you for your interest in this issue. We urge the Subcommittee to approve this proposal at the earliest opportunity.

Sincerely,

RAY SHAW
Chairman, Drawback Committee

NATIONAL CUSTOMS BROKERS & FORWARDERS ASSOCIATION OF AMERICA
WASHINGTON, DC 20036
August 15, 1997

The Honorable Philip M. Crane
Chairman
Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

The National Customs Brokers and Forwarders Association of America (NCBFAA) appreciates the opportunity to express our wholehearted support for two technical trade proposals included in your June 30 press release.

DRAWBACK-ELIGIBLE CONTAINERS "FILLED" PRIOR TO EXPORTATION

The first is item number 4, which would make a technical change in the drawback statute to clarify that drawback-eligible containers, manufactured in the United States, will not be considered to have been "used" in the United States (and thereby disqualified for drawback) if, prior to exportation, such containers are filled by someone other than the manufacturer.

Generally, duty drawback is allowed upon the export of articles manufactured or produced within the U.S. with the use of imported materials, provided that those articles have not been used prior to exportation. A number of manufacturers throughout the United States produce packaging products (bottles, cartridges, etc.) made from imported materials. In recent years, the issue has arisen as to whether "filling" the container prior to its export constitutes a "use" of the article, which would make it ineligible for duty drawback.

To address this situation, the Customs Modernization Act added a new subsection (q) to Section 313 of the Tariff Act, specifically allowing drawback on packaging materials, under manufacturing or same condition drawback [subsections (a), (b),(c) or (j) of Section 313] where the packaging is "used" by filling with a substance prior to exportation.

However, a recent Customs ruling [Customs Headquarters Ruling 227276 of April 7, 1997] limits this provision only to "filling" of a container by the manufacturer of the container. According to Customs interpretation, filling of a container by anyone other than the manufacturer is a disqualifying "use" and, therefore, the container is not eligible for drawback upon export. Customs position reverses a prior ruling [Customs Headquarters Ruling 225658 of January 17, 1995] allowing drawback for the container or packaging material, regardless of who filled it.

NCBFAA believes that this result was unintended by Congress and represents a major change in policy. The proposed amendment in Item 4 of your press release would ameliorate the problem by providing that U.S.-produced packaging material may be "used" by the manufacturer or any other person and, thus, will remain eligible for duty drawback upon export. This is a noncontroversial change and one that is revenue-neutral, since it simply clarifies what Congress intended to accomplish in passing the Customs Modernization Act provision on this issue.

ACCOUNTING RULES FOR DRAWBACK ON PETROLEUM PRODUCTS

The second proposal we support is Item 3 of the press release. The current drawback statute [19 U.S.C. Section 1313(p)] was amended by the Customs Modernization Act [P.L. 103–182] to provide special accounting and attribution rules for drawback on petroleum products. The purpose of the amended petroleum provisions was to allow the industry to account for selected petroleum products on a quantitative basis, relieving the industry from the impossible task of "tracing molecules" for the attribution of drawback.

Since passage of the Customs Modernization Act, Customs has given conflicting signals on how they will implement the provision. It now appears Customs will be taking the position that companies are required to track delivery of the actual imported petroleum to the possession of the exporter, in effect requiring the tracing of molecules under Section 1313(p)(2)(A)(iv). This interpretation is flatly inconsistent with the intent of the statute, as well as with Customs' own interim guidance procedures.

The proposed technical change in Item 3 would remedy this situation, providing needed clarification as to the meaning of the original Customs Modernization provision. Again, this is a noncontroversial change in the accounting rules for attribution of duty drawback and is also revenue neutral.

NCBFAA strongly supports both of these technical trade provisions and urge your Subcommittee to advance both measures at the earliest opportunity.

Sincerely,

MICHAEL DUGAN
President

NESTE OY
HOUSTON, TX 77027
August 13, 1997

The Honorable Philip M. Crane
Chairman
Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

RE: Miscellaneous Corrections to Trade Legislation

Dear Chairman Crane,

In response to your June 30, 1997 request for comments on miscellaneous trade proposals, Neste Oy wishes to express our strong support for Item 3, relating to the accounting and attribution rules for duty drawback on petroleum products.

This issue was addressed in detail as part of the Customs Modernization Act, enacted several years ago. That law provided special accounting rules to allow the petroleum industry to account for selected petroleum products on a quantitative basis for purposes of duty drawback claims. Without that provision, in order to file certain drawback claims for product that is exported, companies like our own would have to track the actual molecules of certain petroleum derivatives as the product travels through a series of pipelines and tanks, commingled with like products from other sources. This, of course, would be an impossible accounting feat that in effect would prevent us from obtaining duty drawback for exports of many petroleum products.

We and others in the industry thought that Customs Modernization Act provision settled the matter once and for all. However, there appears to be confusion at Customs on how to implement this provision. Their apparent interpretation would once again require the "tracking of molecules"—a result clearly not intended by the Customs Modernization Act. That is why the proposed technical correction in your June 30, 1997 press release is needed—to clarify the original intent of the Customs Modernization Act that selected petroleum products should be tracked on a quantitative basis for purposes of substitution drawback.

Thanks for your interest in this issue. We urge your Subcommittee to approve this proposal at the earliest opportunity.

Respectfully submitted,

MAURI HATTUNEN
Vice President

KHB/bap

NORTHVILLE INDUSTRIES CORP.
MELVILLE, NEW YORK 11747–0398
August 7, 1997

The Honorable Philip M. Crane
Chairman
Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

In response to your June 30, 1997 request for comments on miscellaneous trade proposals, Northville Industries Corp. wishes to express our strong support for Item 3, relating to the accounting and attribution rules for duty drawback on petroleum products.

This issue was addressed in detail as part of the Customs Modernization Act, enacted several years ago. That law provided special accounting rules to allow the petroleum industry to account for selected petroleum products on a quantitative basis for purposes of duty drawback claims. Without that provision, in order to file certain drawback claims for product that is exported, companies like our own would have to track the actual molecules of certain petroleum derivatives as the product travels through a series of pipelines and tanks, commingled with the products from other sources. This, of course, would be an impossible accounting feat that in effect would prevent us from obtaining drawback for exports of many petroleum products.

We and others in the industry thought the Customs Modernization Act provision settled the matter once and for all. However, there appears to be confusion at Customs on how to implement this provision. Their apparent interpretation would once again require the "tracking of molecules"—a result clearly not intended by the Customs Modernization Act. That is why the proposed technical correction in your June 30, 1997 press release is needed—to clarify the original intent of the Customs Modernization Act that selected petroleum products should be tracked on a quantitative basis for purposes of substitution drawback.

Thanks for your interest in this issue. We urge your Subcommittee to approve this proposal at the earliest opportunity.

Sincerely,

JOSEPH J. ACKELL
Senior Vice President,
Chief Legal and Public Affairs Officer

NORTHWEST AIRLINES, INC.
DEPARTMENT A4192
ST. PAUL, MN 55111–3034
August 14, 1997

The Honorable Philip M. Crane
Chairman
Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

In response to your June 30, 1997 request for comments on miscellaneous trade proposals, Northwest Airlines wishes to express our strong support for Item 3, relating to the accounting and attribution rules for duty drawback on petroleum products.

This issue was addressed in detail as part of the Customs Modernization Act, enacted several years ago. That law provided special accounting rules to allow the petroleum industry to account for selected petroleum products on a quantitative basis for purposes of duty drawback claims. Without that provision, in order to file certain drawback claims for product that is exported, companies like our own would have to track the actual molecules of certain petroleum derivatives as the product travels through a series of pipelines and tanks, commingled with like products from other sources. This, of course, would be an impossible accounting feat that in effect would prevent us from obtaining duty drawback for exports of many petroleum products.

We and others in the industry thought the Customs Modernization Act provision settled the matter once and or all. However, there appears to be confusion at Customs on how to implement this provision. Their apparent interpretation would once again require the "tracking of molecules"—a result clearly not intended by the Customs Modernization Act. That is why the proposed technical correction in your June 30, 1997 press release is needed—to clarify the original intent of the Customs Modernization Act that selected petroleum products should be tracked on a quantitative basis for purposes of substitution drawback.

Thanks for your interest in this issue. We urge your Subcommittee to approve this proposal at the earliest opportunity.

Sincerely,

MICHELLE S. DALSIN
Manager Fuel Control

NOVA CHEMICALS INC.
HOUSTON, TEXAS 77060
August 7, 1997

The Honorable Philip M. Crane
Chairman
Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

In response to your June 30, 1997 request for comments on miscellaneous trade proposals, NOVA Chemicals Inc. wishes to express our strong support for Item 3, relating to the accounting and attribution rules for duty drawback on petroleum products.

This issue was addressed in detail as part of the Customs Modernization Act, enacted several years ago. That law provided special accounting rules to allow the petroleum industry to account for selected petroleum products on a quantitative basis for purposes of duty drawback claims. Without that provision, in order to file certain drawback claims for product that is exported, companies like our own would have to track the actual molecules of certain petroleum derivatives as the product travels through a series of pipelines and tanks, commingled with like products from other sources. This, of course, would be an impossible accounting feat that in effect would prevent us from obtaining duty drawback for exports of many petroleum products.

We and others in the industry thought the Customs Modernization Act provision settled the matter once and for all. However, there appears to be confusion at Customs on how to implement this provision. Their apparent interpretation would once again require the "tracking of molecules"—a result clearly not intended by the Customs Modernization Act. That is why the proposed technical correction in your June 30,1997 press release is needed—to clarify the original intent of the Customs Modernization Act that selected petroleum products should be tracked on a quantitative basis for purposes of substitution drawback.

Thanks for your interest in this issue. We urge your Subcommittee to approve this proposal at the earliest opportunity.

Sincerely,

WAYNE HOLDEN
Business Segment Leader, Styrene Monomer

WH:hrh

PETRO-DIAMOND INCORPORATED
IRVINE, CALIFORNIA 92713–9617
August 14, 1997

The Honorable Philip M. Crane
Chairman
Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

In response to your June 30, 1997 request for comments of miscellaneous trade proposals, Petro-Diamond Incorporated wishes to express our strong support for Item 3, relating to the accounting and attribution rules for duty drawback on petroleum products.

This issue was addressed in detail as a part of the Customs Modernization Act, enacted several years ago. That law provided special accounting rules to allow the petroleum industry to account for selected petroleum products on a quantitative basis for purposes of duty drawback claims. Without that provision, in order to file certain drawback claims for product that if exported, companies like our own would have to track the actual molecules of certain petroleum derivatives as the product travels through a series of pipelines and tanks, commingled with like products from other sources. This, of course, would be an impossible accounting feat that in effect would prevent us from obtaining duty drawback for exports of many petroleum products.

We and others in the industry thought the Customs Modernization Act provision settled the matter once and for all. However, there appears to be confusion at Customs on how to implement this provision. Their apparent interpretation would once again require the tracking of molecules—a result clearly not intended by the Customs Modernization Act. That if why the proposed technical correction in your June 30, 1997 press release is needed—to clarify the original intent of the Customs Modernization Act that selected petroleum products should be tracked on a quantitative basis for purposes of substitution drawback.

Thank you for your interest in this issue. We urge Your Subcommittee to approve this proposal at the earliest opportunity.

Sincerely,

JAMES J. KEATING
President

PHILLIPS PETROLEUM COMPANY
BARTLESVILLE, OKLAHOMA 74004
August 12, 1997

The Honorable Philip M. Crane
Chairman, Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, DC 20515

Dear Chairman Crane:

This is in response to your June 30, 1997 request for comments on miscellaneous trade proposals. Phillips Petroleum Company strongly supports Item 3, relating to the accounting and attribution rules for duty drawback on petroleum products.

We and others in the industry feel that the Customs Modernization Act, enacted in December of 1993, addressed and settled the issue. This law provided special accounting rules to allow the petroleum industry to account for certain specific petroleum products on a quantitative basis for purposes of claiming duty drawbacks. Without these special rules Phillips and other companies in the industry would not be able to file for duty drawback on many exports, unless we could perform the effectively impossible accounting feat of tracking the actual molecules of specific petroleum derivatives as they pass through various tanks and pipelines and are commingled with like products from other sources. Clearly, the intent of the Customs Modernization Act was to facilitate the claiming of duty drawback, not to hamper it. Yet in the confusion of how to implement the law, Customs appears to have reverted back to the philosophy of tracking molecule by molecule.

The proposed technical correction in your June 30, 1997 press release is most definitely needed in order to clarify the original intent of the Customs Modernization Act (that selected petroleum products should be tracked on a quantitative basis for purposes of substitution drawback).

We thank you for your interest in this issue and we urge your Subcommittee to approve this proposal as soon as possible.

Sincerely,

JOSEPH W. O'TOOLE
Vice President and General Tax Officer

ROHM AND HAAS COMPANY
PHILADELPHIA, PA 19106–2399
August 14, 1997

The Honorable Philip M. Crane
Chairman
Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, DC 20515

Dear Chairman Crane:

In response to your June 30, 1997 request for comments on miscellaneous trade proposals, Rohm and Haas Company wishes to express our strong support for Item 3, relating to the accounting and attribution rules for duty drawback on petroleum products.

This issue was addressed in detail as part of the Customs Modernization Act, enacted several years ago. That law provided special accounting rules to allow the petroleum industry to account for selected petroleum products on a quantitative basis for purposes of duty drawback claims. Without that provision, in order to file certain drawback claims for product that is exported, companies like our own would have to track the actual molecules of certain petroleum derivatives as the product travels through a series of pipelines and tanks, commingled with like products from other sources. This, of course, would be an impossible accounting feat that in effect would prevent us from obtaining duty drawback for exports of many petroleum products.

We and others in the industry thought the Customs Modernization Act provision settled the matter once and for all. However, there appears to be confusion at Customs on how to implement this provision. Their apparent interpretation would once again require the "tracking of molecules"—a result clearly not intended by the Customs Modernization Act. That is why the proposed technical corrections in your June 30, 1997 press release is needed—to clarify the original intent of the Customs Modernization Act that selected petroleum products should be tracked on a quantitative basis for purposes of substitution drawback.

Thanks for your interest in this issue. We urge your Subcommittee to approve this proposal at the earliest opportunity.

Sincerely,

GEOFFREY B. HURWITZ
Director of Government Relations

SHELL OIL COMPANY
HOUSTON, TEXAS 77252
August 6, 1997

The Honorable Philip M. Crane
Chairman
Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

In response to your June 30, 1997 request for comments on miscellaneous trade proposals, Shell Oil Company wishes to express our strong support for Item 3, relating to the accounting and attribution rules for duty drawback on petroleum products.

This issue was addressed in detail as part of the Customs Modernization Act, enacted several years ago. That law provided special accounting rules to allow the petroleum industry to account for selected petroleum products on a quantitative basis for purposes of duty drawback claims. Without that provision, in order to file certain drawback claims for product that is exported, companies like our own would have to track the actual molecules of certain petroleum derivatives as the product travels through a series of pipelines and tanks, commingled with like products from other sources. This, of course, would be an impossible accounting feat that in effect would prevent us from obtaining duty drawback for exports of many petroleum products.

We and others in the industry thought the Customs Modernization Act provision settled the matter once and for all. However, there appears to be confusion at Customs on how to implement this provision. Their apparent interpretation would once again require the "tracking of molecules"—a result clearly not intended by the Customs Modernization Act. That is why the proposed technical correction in your June 30,1997 press release is needed—to clarify the original intent of the Customs Modernization Act that selected petroleum products should be tracked on a quantitative basis for purposes of substitution drawback.

Thanks for your interest in this issue. We urge your Subcommittee to approve this proposal at the earliest opportunity.

Sincerely,

STEVEN C. STRYKER
Vice President, General Tax Counsel

STATOIL NORTH AMERICA INC.
STAMFORD, CT 06905
August 14, 1997

The Honorable Philip M. Crane
Chairman
Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, DC. 20515

Dear Chairman Crane:

In response to your June 30, 1997 request for comments on miscellaneous trade proposals, Statoil North America wishes to express our strong support for Item 3, relating to the accounting and attribution rules for duty drawback on petroleum products.

This issue was addressed in detail as part of the Customs Modernization Act, enacted several years ago. That law provided special accounting rules to allow the petroleum industry to account for selected petroleum products on a quantitative basis for purposes of duty drawback claims. Without that provision, in order to file certain drawback claims for product that is exported, companies like our own would have to track the actual molecules of certain petroleum derivatives as the product travels through a series of pipelines and tanks, commingled with like products from other sources. This, of course, would be an impossible accounting feat that in effect would prevent us from obtaining duty drawback for exports of many petroleum products.

We and others in the industry thought the Customs Modernization Act provision settled the matter once and for all. However, there appears to be confusion at Customs on how to implement this provision. Their apparent interpretation would once again require the "tracking of molecules"—a result clearly not intended by the Customs Modernization Act. That is why the proposed technical correction in your June 30, 1997 press release is needed—to clarify the original intent of the Customs Modernization Act that selected petroleum products should be tracked on a quantitative basis for purposes of substitution drawback.

Thanks for your interest in this issue. We urge your Subcommittee to approve this proposal at the earliest opportunity.

Sincerely,

MARK CAIN

MC/js

STERLING CHEMICALS, INC.
HOUSTON, TEXAS 77002–4312
August 6, 1997

The Honorable Philip M. Crane
Chairman
Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

In response to your June 30, 1997 request for comments on miscellaneous trade proposals, Sterling Chemicals, Inc. wishes to express our strong support for Item 3, relating to the accounting and attribution rules for duty drawback on petroleum products.

The issue was addressed in detail as part of the Customs Modernization Act, enacted several years ago. That law provided special accounting rules to allow the petroleum industry to account for selected petroleum products on a quantitative basis for purposes of duty drawback claims. Without that provision, in order to file certain drawback claims for product that is exported, companies like our own would have to track the actual molecules of certain petroleum derivatives as the product travels through a series of pipelines and tanks, commingled with like products from other sources. This, of course, would be an impossible accounting feat that in effect would prevent us from obtaining duty drawback for exports of many petroleum products.

We and others in the industry thought the Customs Modernization Act provision settled the matter once and for all. However, there appears to be confusion at Customs on how to implement this provision. Their apparent interpretation would once again require the "tracking of molecules"—a result clearly not intended by the Customs Modernization Act. That is why the proposed technical correction in your June 30, 1997 press release is needed—to clarify the original intent of the Customs Modernization Act that selected petroleum products should be tracked on a quantitative basis for purposes of substitution drawback.

Thanks for your interest in this issue. We urge your Subcommittee to approve this proposal at the earliest opportunity.

Sincerely,

WILLIAM J. MAGNUSON, JR.
Tax Manager

TRANS WORLD AIRLINES, INC.
ST. LOUIS, MISSOURI 63101
August 7, 1997

The Honorable Philip M. Crane
Chairman
Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

In response to your June 30, 1997 request for comments on miscellaneous trade proposals, Trans World Airlines wishes to express our strong support for Item 3, relating to the accounting and attribution rules for duty drawback on petroleum products.

This issue was addressed in detail as part of the Customs Modernization Act, enacted several years ago. That law provided special accounting rules to allow the petroleum industry to account for selected petroleum products on a quantitative basis for purposes of duty drawback claims. Without that provision, in order to file certain drawback claims for product that is exported, companies like our own would have to track the actual molecules of certain petroleum derivatives as the product travel's through a series of pipelines and tanks, commingled with like products from other sources. This, of course, would be an impossible accounting feat that in effect would prevent us from obtaining duty drawback for exports of jet fuel.

We and others in the industry thought the Customs Modernization Act provision settled the matter once and for all. However, there appears to be confusion at Customs on how to implement this provision. Their apparent interpretation would once again require the "tracking of molecules"—a result clearly not intended by the Customs Modernization Act. That is why the proposed technical correction in your June 30, 1997 press release is needed to clarify the original intent of the Customs Modernization Act that selected petroleum products should be tracked on a quantitative basis for purposes of substitution drawback.

Thanks for your interest in this issue. We urge your Subcommittee to approve this proposal at your earliest opportunity.

Sincerely,

MICHAEL J. PALUMBO
Senior Vice President & CFO

ULTRAMAR DIAMOND SHAMROCK CORPORATION
SAN ANTONIO, TEXAS 78269–6000

The Honorable Philip M. Crane
Chairman
Subcommittee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

In response to your June 30, 1997 request for comments on miscellaneous trade proposals, Ultramar Diamond Shamrock wishes to express our strong support for Item 3, relating to the accounting and attribution rules for duty drawback on petroleum products.

This issue was addressed in detail as part of the Customs Modernization Act, enacted several years ago. That law provided special accounting rules to allow the petroleum industry to account for selected petroleum products on a quantitative basis for purposes of duty drawback claims. Without that provision, in order to file certain drawback claims for product that is exported, companies like our own would have to track the actual molecules of certain petroleum derivatives as the product travels through a series of pipelines and tanks, commingled with like products from other sources. This, of course, would be an impossible accounting feat that in effect would prevent us from obtaining duty drawback for exports of many petroleum products.

We and others in the industry thought the Customs Modernization Act provision settled the matter once and for all. However, there appears to be confusion at Customs on how to implement this provision. Their apparent interpretation would once again require the "tracking of molecules"—a result clearly not intended by the customs Modernization Act. That is why the proposed technical correction in your June 30, 1997 press release is needed—to clarify the original intent of the Customs Modernization Act that selected petroleum products should be tracked on a quantitative basis for purposes of substitution drawback.

Thanks for your interest in this issue. We urge your Subcommittee to approve this proposal at the earliest opportunity.

Sincerely,

W. REED WILLIAMS
Vice President, Product Supply

UNITED AIRLINES
WORLD HEADQUARTERS
CHICAGO, ILLINOIS 60666

The Honorable Philip M. Crane
Chairman
Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

In response to your June 30, 1997 request for comments on miscellaneous trade proposals, United Airlines wishes to express our strong support for Item 3, relating to the accounting and attribution rules for duty drawback on petroleum products.

This issue was addressed in detail as part of the Customs Modernization Act, enacted several years ago. That law provided special accounting rules to allow the petroleum industry to account for selected petroleum products on a quantitative basis for purposes of duty drawback claims. Without that provision, in order to file certain drawback claims for product that is exported, companies like our own would have to track the actual molecules of certain petroleum derivatives as the product travels through a series of pipelines and tanks, commingled with like products from other sources. This, of course, would be an impossible accounting feat that in effect would prevent us from obtaining duty drawback for exports of many petroleum products.

We and others in the industry thought the Customs Modernization Act provision settled the matter once and for all. However, there appears to be confusion at Customs on how to implement this provision. Their apparent interpretation would once again require the "tracking of molecules"—a result clearly not intended by the Customs Modernization Act. That is why the proposed technical correction in your June 30,1997 press release is needed—to clarify the original intent of the Customs Modernization Act that selected petroleum products should be tracked on a quantitative basis for purposes of substitution drawback.

Thanks for your interest in this issue. We urge your Subcommittee to approve this proposal at the earliest opportunity.

Sincerely,

JAMES V. SINES
Vice President Purchasing

VALERO REFINING COMPANY
HOUSTON, TEXAS 77052–3720
August 11, 1997

The Honorable Philip M. Crane
Chairman
Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

In response to your June 30, 1997 request for comments on miscellaneous trade proposals, Valero Refining Company wishes to express our strong support for Item

3, relating to the accounting and attribution rules for duty drawback on petroleum products.

This issue was addressed in detail as part of the Customs Modernization Act, enacted several years ago. That law provided special accounting rules to allow the petroleum industry to account for selected petroleum products on a quantitative basis for purposes of duty drawback claims. Without that provision, in order to file certain drawback claims for product that is exported, companies like our own would have to track the actual molecules of certain petroleum derivatives as the product travels through a series of pipelines and tanks, commingled with like products from other sources. This, of course, would be an impossible accounting feat that in effect would prevent us from obtaining duty drawback for exports of many petroleum products.

We and others in the industry thought the Customs Modernization Act provision settled the matter once and for all. However, there appears to be confusion at Customs on how to implement this provision. Their apparent interpretation would once again require the "tracking of molecules"—a result clearly not intended by the Customs Modernization Act. That is why the proposed technical correction in your June 30,1997 press release is needed—to clarify the original intent of the Customs Modernization Act that selected petroleum products should be tracked on a quantitative basis for purposes of substitution drawback.

Thanks for your interest in this issue. We urge your Subcommittee to approve this proposal at the earliest opportunity.

Sincerely,

ROBERTA M. ROSSI
Vice President and Managing Attorney

VENTURE COKE COMPANY L.L.C.
HOUSTON, TX 77079
August 6, 1997

The Honorable Philip M. Crane
Chairman
Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

In response to your June 30, 1997 request for comments on miscellaneous trade proposals, Venture Coke Company L.L.C. wishes to express our strong support for Item 3, relating to the accounting and attribution rules for duty drawback on petroleum products.

This issue was addressed in detail as part of the Customs Modernization Act, enacted several years ago. That law provided special accounting rules to allow the petroleum industry to account for selected petroleum products on a quantitative basis for purposes of duty drawback claims. Without that provision, in order to file certain drawback claims for product that is exported, companies like our own would have to track the actual molecules of certain petroleum derivatives as the product travels through a series of pipelines and tanks, commingled with like products from other sources. This, of course, would be an impossible accounting feat that in effect would prevent us from obtaining duty drawback for exports of many petroleum products.

We and others in the industry thought the Customs Modernization Act provision settled the matter once and for all. However, there appears to be confusion at Customs on how to implement this provision. Their apparent interpretation would once again require the "tracking of molecules"—a result clearly not intended by the Customs Modernization Act. That is why the proposed technical correction in your June 30,1997 press release is needed—to clarify the original intent of the Customs Modernization Act that selected petroleum products should be tracked on a quantitative basis for purposes of substitution drawback.

Thanks for your interest in this issue. We urge your Subcommittee to approve this proposal at the earliest opportunity.

Sincerely,

J.W. THOMPSON
Chief Financial Officer

Proposed Miscellaneous Corrections #4

Section 313 of the Tariff Act of 1930 (19 U.S.C. 1313) was amended by the North American Free Trade Agreements Implementation Act [P.L. 103–182] to insert a new subsection (q) allowing drawback on packaging materials, where the packaging is "used" by filling prior to exportation. Customs interprets "use" by filling to be limited to the manufacturer of the packaging material and that filling may not be performed by another company. Customs proposes to reverse or modify Headquarters ruling 225658 of January 17, 1995, allowing such treatment. This proposed provision would amend section 313(q) of the Tariff Act of 1930 (19 U.S.C. 1313(q)) by inserting a new section for drawback eligible packing material filled prior to exportation. The proposed provision would provide that packaging materials produced in the United States, which are used by the manufacturer or any other person for articles which are exported or destroyed shall be eligible for a drawback refund of 99 percent of any duty, tax, or fee imposed on the importation of materials used to manufacture the packing materials. The proposed amendment would provide that U.S.-produced packaging material may be "used" by the manufacturer or any other person and, thus, will remain eligible for drawback payment.

see also Customs and International Trade Bar Association under Proposed Miscellaneous Corrections #1

see also JBC International under Proposed Miscellaneous Corrections #3

see also J.G. Eberlein & Co., Inc. under Proposed Miscellaneous Corrections #3

see also J.M. Rodgers Co., Inc. under Proposed Miscellaneous Corrections #3

see also National Customs Brokers & Forwarders Association of America under Proposed Miscellaneous Corrections #3

BASF CORPORATION
MOUNT OLIVE, NEW JERSEY 07828–1234
August 11, 1997

Mr. A.L. Singleton
Chief of Staff
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Re: Miscellaneous Corrections to Trade Legislation: Section 313(q) of the Tariff Act of 1930 (19 U.S.C. 1313(q))

Dear Mr. Singleton:

We are writing in support of the proposed correction to Section 313(q) of the Tariff Act of 1930, which deals with drawback eligible packing material filled prior to exportation. BASF Corporation is one of the largest chemical manufacturers in the United States and, as a major importer and exporter, is an active participant in duty drawback programs.

The proposed amendment to Section 313(q) of the Tariff Act of 1930 would provide that packaging materials produced in the United States, which are used by the manufacturer or any other person for articles which are exported or destroyed shall be eligible for dury drawback refunds of 99% of the duty paid on the imported materials used to manufacture the packaging materials. The proposed amendment would provide that packaging material produced in the United States may be "used" by the manufacturer or any other person, thereby remaining eligible for duty drawback refunds (italics added).

We support this proposed amendment as it will provide logistical flexibility in the filling of containers with product for exportation. The eligibility for duty drawback for these containers will enable both the exported products and their containers to continue to compete effectively in international markets. The current limitation to containers "used" solely by the manufacturer of the packaging material is far too restrictive and has an inimical effect upon drawback and, therefore, upon the competitiveness of U.S. products sold abroad.

We thank you for your kind consideration of these comments.

Very truly yours,

RICHARD J. SALAMONE
Manager, Customs & International Regulatory Compliance

GULF COAST DRAWBACK SERVICES, INC.
KATY, TEXAS 77450

The Honorable Philip M. Crane
Chairman
Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

In response to your June 30, 1997 request for comments on miscellaneous trade proposals, Gulf Coast Drawback Services, Inc. wishes to express our strong support of Item 4, relating to drawback on packaging material.

This issue was addressed in detail as part of the Customs Modernization Act, enacted several years ago. That law provided for drawback on packaging material. A recent ruling by U.S. Customs impacts the availability of drawback.

The proposed technical correction in your June 30,1997 press release is needed so that packaging material produced in the United States may be "used" by the manufacturer or any other person and, thus, be eligible for drawback when the ultimate product is exported.

Thanks for your interest in this issue. We urge your Subcommittee to approve this proposal at the earliest opportunity.

Sincerely,

BOBBY WAID
President

Proposed Miscellaneous Corrections #5

To amend section 411 et seq. of the Tariff Act of 1930 (19 U.S.C. 1411 et seq.) relating to the National Customs Automation Program to require Customs to establish and implement the means by which foreign-trade zone admission data can be electronically filed.

see also JBC International under Proposed Miscellaneous Corrections #3

Written Comments of IMS Worldwide, Inc., Friendswood, Texas

Pursuant to the United States House of Representatives' Committee on Ways and Means' Subcommittee on Trade's request for written public comments for the record from all parties interested in technical corrections to recent trade legislation, IMS Worldwide, Inc. (IMSW) submits the following statement:

The particular technical correction this statement concerns is the automation of Foreign-Trade Zone admission procedures, namely the ability to electronically submit Customs Form 214 (CF 214). This form is used when goods are brought, "admitted" in Zone terms, into a Foreign-Trade Zone and is the only Customs Form used in large quantities across the country that cannot be transmitted to Customs electronically.

As a Foreign-Trade Zone consulting firm, IMSW both works and has worked with a number of Foreign-Trade Zone operators who deal with recordkeeping and Customs issues on a daily basis. Consequently, we are well aware of the Customs forms and other methods of reporting required in Zones and have even operated Zones ourselves.

One of our clients operating in an FTZ undertakes weekly Customs entries, and they send information to their Customs Broker through EDI. Correctly completing and submitting their CF 214 requires five people. Our client must fill out the form and physically take it to Customs, since the local Customs office refuses to accept faxes. Additionally, if the 214 is used as a dray ticket, the trucker has to physically take it to the port.

We are aware that, internal to Customs, a draft electronic 214 has been created by an internal ad hoc team, but Customs' ACE Team has not yet agreed to use it. We feel the U.S. Congress should do everything in its power to force Customs to use the electronic 214. A model exists; let's use it or modify it.

Additionally, under the recent Customs reorganization, the automation of FTZ admission procedures will most likely not occur within the next five years. This is an unreasonable time period. Due to the rapidly increasing level of international trade, more companies than ever operate in Foreign-Trade Zones (over 300,000 employed by FTZ's in 1996!). Companies are trading more goods faster than ever, and they've found Zones often make importing and exporting easier, in addition to the increased revenues FTZ operation can generate. These companies need the U.S. Government on their side, helping them compete with foreign firms in our fast-paced world of international commerce. One small step by which government can assist is making it possible to electronically file CF 214's.

Under automated admission procedures, a firm could both fill out and submit the form much more rapidly than under today's manual procedures. Most modern companies automate all of their recordkeeping processes, and being able to electronically submit the CF 214 would help them streamline their procedures and better maintain records. Electronic files are rarely misplaced, can be easily backed up, and, due to the use of a keyboard rather than a pen, are often easier to read.

Additionally, the issue of American dominance in the international trade arena cannot be ignored. Anything we can do to facilitate trade will add an extra weight to our side of the trade balance scales. Automating FTZ entry procedures makes every involved party's task simpler. Customs will no longer have to manually type information, the U.S. Census Bureau and the Food and Drug Administration will no longer have to wait for information, and FTZ operators will be able to streamline and simplify their recordkeeping procedures.

MASSACHUSETTS PORT AUTHORITY
PORT DEPARTMENT, BOSTON, MA 02210
July 28, 1997

Mr. A. L. Singleton
Chief of Staff
Committee on Ways and Means
U. S. House of Representatives
1102 Longworth House Office Building
Washington, DC 20515

REF: Technical Correction Amending Section 411 et seq. of the Tariff Act of 1930 (19 USC 1411 et seq.)

Dear Mr. Singleton,

As Grantee/Administrator of Foreign Trade Zone #27 in Boston, the Massachusetts Port Authority supports the technical correction to the above-referenced act, which has been submitted by the National Association of Foreign Trade Zones.

The Port of Boston faces very stiff competition from Canadian ports such as Montreal and Halifax, who market themselves very aggressively as North American gateways to the U.S. importers and exporters.

A Foreign Trade Zone is a distinct advantage to certain importers and exporters who might otherwise be tempted to use Canadian ports. User interest in our Foreign Trade Zone is on the rise, and for these reasons we want to make using the Foreign Trade Zone as smooth as possible.

The Foreign Trade Zone Admission Process is essential in our case to facilitating the use of Boston's zone by U.S. importers and exporters.

We therefore ask that you prioritize the automation of the Foreign Trade Zone Admission Process by supporting the referenced technical change as submitted by the National Association of Foreign Trade Zones.

Thank you for your assistance and consideration.

Sincerely,

RALPH F. COX
Port Director

Proposed Miscellaneous Corrections #6

To amend section 491(a) of the Tariff Act of 1930 (19 U.S.C. 1491(a)) to extend the retention period for International Travel Merchandise (ITM) held at Customs-approved storage rooms (CASR) to five years, identical to the period for all classes of Customs-approved bonded warehouses. ITM consists of in-flight merchandise sold on board international air carriers after departure from U.S. Customs territory. Presently, ITM is imported to the United States under bond and is moved to centralized, Customs-approved bonded warehouses. The merchandise is further distributed to CASRs near the airports where it is stored, manipulated, and exported under Customs' supervision. The CASRs are regulated as if the merchandise were being held "on dock" awaiting exportation. Prior to the Customs Modernization Act, ITM had been held at the CASRs in 90-day increments for up to one year. However, Customs believes that, under the terms of a revision provided in the Customs Modernization Act relating to unclaimed merchandise in General Order warehouses, the maximum period may now be six months. The proposed revision would extend the retention period to five years and extend to CASRs the same treatment which is given to Customs-approved bonded warehouses.

INFLIGHT DUTY FREE SHOP, INC.
JAMAICA, NEW YORK 11413
August 13, 1997

The Honorable Philip M. Crane
Chairman
Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

ATTN: A.L. Singleton, Chief of Staff

Dear Chairman Crane:

Thank you for the opportunity to comment on the various technical trade bills and proposals being considered by your Subcommittee. On behalf of Inflight Duty Free Shop, Inc., I am pleased to submit the following comments on Item #6, which clarifies the intent of Congress in passing the Customs Modernization Act and extends the retention period for International Travel Merchandise held at customs-approved storage rooms (CASRs).

As the largest operator in the in-flight duty free industry, IDFS has a significant interest in this issue, and we fully support this proposal.

WHAT IS A CASR?

It may be helpful to review what a CASR is. CASRs are utilized in the in-flight business. The merchandise stored in a CASR is often called International Travel Merchandise (ITM)—gift items, jewelry, liquor and similar merchandise that is offered for sale on board aircraft to passengers upon their departure from the U.S.

Customs has allowed the importation and entry of these items for retention under continuous customs custody at a facility at an airport for future delivery to aircraft for exportation. The facility where the international travel merchandise is stored is referred to as a "Customs-approved storeroom," or CASR.

To provide an example of how this works, the International Travel Merchandise is taken from a CASR and loaded as a "kit" onto a departing airplane, where goods are sold to passengers. At the end of the flight, the remaining merchandise is often stored overnight or for some period at the foreign destination point and is likely to be loaded on to a return flight and further depleted. Once it arrives back in the U.S., the "kit" is taken to the CASR and replenished.

The movement of merchandise into and out of a CASR, as well as the inventories of merchandise remaining in the CASR, must be strictly accounted for and reported to Customs.

HOW A CASR IS DEFINED UNDER CUSTOMS LAW

A CASR is presently different from a customs bonded warehouse. In fact, there is no requirement that the CASR itself be bonded—rather the merchandise itself is covered under a transportation bond by the carrier. Under Customs law, a CASR is a creature of 19 U.S.C. 1553—entry for transportation in bond and exportation—as implemented by 19 CFR 18.24. This regulatory provision, entitled "Retention of Goods on Dock," allows "in-transit merchandise to remain on the dock" for renewable periods of 90 days. A Customs Directive states that the total length of time in a CASR cannot exceed one year.

The basis for this one year period was 19 U.S.C. 1491, which stated in part that "any entered or unentered merchandise (including merchandise entered for transportation in bond or exportation) which shall remain in Customs custody for one year...shall be considered unclaimed."

In the Customs Modernization Act, Section 1491 was changed in two respects: 1) the time period for merchandise to be considered "unclaimed" property was shortened to six months; and 2) the scope of this section was narrowed from "any merchandise in Customs custody" to "any merchandise which...remain(s) in a bonded warehouse pursuant to section 1490."

Since a CASR is not a bonded warehouse and the merchandise in a CASR is not entered pursuant to section 1490 (which is a section dealing with General Order warehouses, where merchandise goes if "entry" of the merchandise cannot be completed for some reason, such as lack of documentation or some other deficiency), the section 1490 time limits no longer apply to CASRs.

Customs Interpretation of Modernization Act Changes

There is disagreement at Customs, however, in the implementation of this provision. They are of the opinion that the section 1490 change from one year to six months requires Customs to apply this same time limit to merchandise stored in a CASR. Yet, in arriving at this conclusion, they are simply ignoring the plain words of the revised statute, which very clearly narrowed the scope of the statute to General Order merchandise stored in a bonded warehouse.

To support their conclusion, Customs continues to cling to a footnote which has appeared in the regulations (19 CFR 18.24, footnote 9) dealing with CASRs. That footnote references 19 U.S.C. 1491 as the basis for limiting merchandise in a CASR to one year. While that may have been the basis for the one-year limitation for many years, once the Customs Modernization Act narrowed the scope of section 1491, the footnote became invalid and inappropriate. It references a section of the law that no longer applies to the situation at hand.

Customs interpretation would mean that a footnote to a regulation takes precedence over the words of the statute itself. This is a curious, somewhat twisted method of statutory construction.

The Trade Subcommittee Proposal

That is the reason the proposal in your June 30 press release is needed—to make it even more explicit in the statute that Customs has the authority to allow merchandise to remain in a CASR beyond the six month limit established in section 1491. The proposal provides maximum flexibility to Customs by giving the agency the authority to allow the merchandise to remain in a CASR for up to five years—the same period that applies to the storage of goods in a Customs bonded warehouse.

Without this provision, Customs apparently will insist that no International Travel Merchandise remain in a CASR longer than six months—a requirement that serves no useful purpose, while triggering enormous, duplicative paperwork and accounting requirements. Goods will have to be moved at the end of six months for no other purpose than to comply with an erroneous interpretation of the law. This moves us in the opposite direction of where the Customs Service is trying to go—eliminating unnecessary, paper-generating reporting requirements, thereby freeing Customs to target their resources to higher risk activities. Furthermore, it will be extremely costly to our industry and interfere in our ability to sell these products.

We urge you to work towards swift passage of this technical, but highly important provision, which is non-controversial and revenue neutral. We would be pleased to provide you with any additional information.

Sincerely,

PETER J. CATHEY
President

INFLIGHT DUTY FREE SHOP, INC.
JFK DIVISION
JAMAICA, NY., 11413
August 13, 1997

The Honorable Philip M. Crane
Chairman
Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

ATTN: A.L. Singleton, Chief of Staff

Dear Chairman Crane:

On behalf of the New York office of the Inflight Division of Duty Free International, I wish to express our support for the CASR proposal [Number 6] in your press release of June 30, 1997. This provision would clarify the current law as to the length of time merchandise can be held in a customs-approved storage room (CASR), and extend the time period so that it is equal to the retention period for merchandise in a customs bonded warehouse.

We are very pleased you are considering this proposal. Customs wants to enforce their unusual interpretation of the law, which will result in a six-month retention period for merchandise stored in a CASR. Such a requirement would needlessly interfere with the conduct of our business, necessitating the movement of goods out of a CASR for no other reason than to comply with Customs' mistaken interpretation. It also would generate reams of excessive reporting and prove very costly to the industry.

At a time when Customs is trying to reduce unnecessary and duplicative paper in their processes and focus their resources on higher risk areas, such a requirement runs completely counter to that goal.

Thanks for the opportunity to comment on this proposal.

Sincerely,

MARIO SCORCIA
Vice President, Operations

INFLIGHT DUTY FREE SHOP, INC.
CHICAGO STATION
SCHILLER PARK, IL 60176
August 13, 1997

The Honorable Philip M. Crane
Chairman
Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

ATTN: A.L. Singleton, Chief of Staff

Dear Chairman Crane:

The Chicago office of the Inflight Division of Duty Free International is pleased to provide the following comments on the proposal in Item 6 of your June 30, 1997 press release, which relates to the retention period for merchandise in a customs-approved storage room (CASR). We strongly support this proposal.

Without this change, which explicitly provides the authority for merchandise to remain in a CASR for up to five years, Customs will require in-flight businesses like our own to either fully deplete or else move all of our inventory located in a CASR at the end of six months. This is just plain foolishness. It results from an erroneous interpretation by Customs of current law and serves the agency no useful purpose. Moreover, it creates enormous and unnecessary paperwork requirements for our industry, not to mention the major cost to in-flight to move inventory in six month cycles.

We appreciate your interest in this issue and hope you can gain passage of this provision in the near future.

Sincerely,

CELESTE MORAN
Manager

INFLIGHT DUTY FREE SHOP, INC.
DETROIT STATION
ROMULUS, MI., 48174
August 13, 1997

The Honorable Philip M. Crane
Chairman
Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

ATTN: A.L. Singleton, Chief of Staff

Dear Chairman Crane:

The Detroit office of the Inflight Division of Duty Free International strongly endorses the trade proposal in your press release of June 30, 1997 that relates to the retention period for merchandise held in a customs-approved storage room (CASR).

This is a technical, but highly necessary, change. Without it, my company and others like it will be forced to arbitrarily move product every six months for no particular purpose, other than Customs' erroneous interpretation of current law. While some items move quickly in and out of inventory, other items do not. To comply with a six month retention limit would be extremely costly to business, create mountains of additional paperwork and reporting and interfere with our ability to sell these products.

We applaud your efforts to correct this situation and look forward to seeing this proposal passed by Congress.

Sincerely,

ROBERT PAPELIAN
Director, Regulatory Compliance

Proposed Miscellaneous Corrections #7

Section 431 of the Tariff Act of 1930 outlines the requirements, form, and content of manifest information which must be publicly disclosed. Section 431(c) outlines the requirements for public disclosure of manifest information. On July 2, 1996, the President signed the Anticounterfeiting and Consumer Protection Act of 1996 [P.L. 104–153], which amended section 431(c)(1) to require public disclosure of vessel and aircraft manifest information, as well as additional requirements as to the content of such information. On October 11, 1996, the President signed into law the Miscellaneous Trade and Technical Corrections Act of 1996 [P.L. 104–295], which amended section 431(c)(1) to require public disclosure of vessel manifest information only, and makes no additions to the law regarding the content of such information. Given the potentially conflicting interpretations of these laws, legislation may be needed to clarify that the language contained in the Miscellaneous Trade and Technical Corrections Act of 1996 reflects Congressional intent.

see also Customs and International Trade Bar Association under Proposed Miscellaneous Corrections #1

see also JBC International under Proposed Miscellaneous Corrections #3

see also Stewart and Stewart under Proposed Miscellaneous Corrections #1

Comments of the Air Courier Conference of America, Falls Church, Virginia

On behalf of the Air Courier Conference of America ("ACCA") International Committee ("IC"), we hereby submit these comments concerning Section 11 of the Anticounterfeiting Consumer Protection Act of 1996, Pub. Law 104–153, which allows public access to air carrier cargo manifests.

ACCA is the trade association representing the express carrier industry; ACCA–IC is the section of ACCA representing those express carrier companies with significant international operations. ACCA–IC members include large firms with global delivery networks, such as DHL, Federal Express, TNT and United Parcel Service, as well as smaller businesses with strong regional delivery networks, such as Global Mail, Midnite Express and Quick International. Together, ACCA–IC members employ approximately 415,000 American workers and earned global revenues of $45 billion in 1996. ACCA–IC members constitute a significant volume of import business. In 1996, we accounted for roughly 10.2 million entries into the United States with an approximate value of $23 billion.

ACCA supports the position set forth in the comments submitted by the Air Transport Association ("ATA"). We concur that implementation of Section 11 will unintentionally aid those involved in terrorist activities as well as assist those in the counterfeiting business. As succinctly noted by the ATA, the Act will unintentionally produce:

- added security risks for all shippers, passengers, air carriers and other modes of transportation from a better educated criminal or terrorist;
- an environment that fosters corporate espionage;
- smarter and more opportune counterfeiters; and
- overwhelming computer development costs for air carriers.

We concur with ATA that it would be advisable to establish a working group to address the counterfeiting problem. We would be pleased to work with other carrier groups to improve counterfeiting detection while not compromising security.

Respectfully Submitted,

EVELYN M. SUAREZ
Counsel, Ross & Hardies

Communications regarding these comments should be addressed to: Evelyn M. Suarez, Counsel, Ross & Hardies, 202–835–7450; or Sue Presti, Executive Director, Air Courier Conference of America, 703–204–9677.

Comments of the Air Transport Association

The Air Transport Association of America (ATA), on behalf of its member airlines, submits these comments concerning the referenced Public Law to amend 19 USC 1431 regarding public access to air carrier manifest.

ATA's membership consists of 22 scheduled airlines of the United States and three international, scheduled air carriers. Together these airlines carry more than half of the air cargo that arrives in the United States from foreign locations; they are thereby responsible for collecting at least half of the air cargo manifest data. Of particular interest to ATA are the proposals that require U.S. Customs to make all air cargo manifest data available to the public.

While ATA appreciates the fact that current Federal law is not adequate to protect consumers and American businesses from the crime of counterfeiting legitimate trademark products, there are parts of Public Law 104–153, Anti-counterfeiting Consumer Protection Act of 1996, to which Customs contributed and for which it is currently drafting proposed regulations, that we feel will unintentionally aid those involved in terrorist activities as well as assist those in the counterfeiting business. In fact, the Act will contribute unique opportunities for terrorists and counterfeiters to the detriment of the general public.

Overall, ATA supports the concept and goal of the Anticounterfeiting Act. However, we believe Section 11 that allows public access to air carrier cargo manifest data will produce results contrary to its original objective. Specifically, the Act will unintentionally produce (1) added security risks for all shippers, passengers, air carriers and other modes of transportation from a better educated criminal or terrorist; (2) an environment that fosters corporate espionage; (3) smarter and more opportune counterfeiters and; (4) overwhelming computer development costs for air carriers.

Security Risks

Public access to air cargo manifest data as stated in Public Law 104–153 will allow previously confidential information to pass through the hands of the very criminal element, such as organized crime or terrorists, from which the law is trying to protect the American public. Sensitive data such as shipper and consignee, commodity description, routing details, number of pieces and weight, when placed in an automated environment, can produce very revealing information that could foster criminal activity.

Air cargo is typically used by shippers who need to get sensitive, high value goods to retail outlets quickly to take advantage of current consumer trends. Air carrier cargo manifests, if made public, will reveal shipper and consignee name and address, commodity description, number of pieces and weight, name of the air carrier, port of loading, port of discharge, country of origin, and trademarks. Simple analysis of this data will reveal to terrorists, organize crime, and others, shipping habits of global companies, security and risk assessment, customer lists, current popular consumer products, shipping trends, quantity and value of goods, shipping schedules, location of goods and other marketing data. This part of the Act educates the terrorist or criminal enabling them to make intelligent decisions of what flight or goods to target based on the shipper, commodity descriptions, quantity, transportation schedule, location, and value the goods would produce on the street.

Moreover, from a safety and security perspective the consequences are much more significant. The public availability of cargo manifest information is a road map for any potential terrorist. This data can provide them with particularly sensitive information in order to overcome current security procedures by revealing shipping habits of legitimate manufactures. For example, a terrorist will be able to determine origin, destination, flight numbers, commodity descriptions, and frequency used by legitimate manufacturers. This gives the terrorist an opportunity to mask a detonating substance in a shipment that uses similar information from a legitimate manufacturer. Each component, on its own is harmless, together they are lethal.

Public access to manifest data presents other security risks to the public and transportation staff as well. Commodity descriptions for goods such as precious metals, diamonds, currency and bank notes, high value goods, and prone to theft goods such as VCR's, portable electronics, leather goods, and garments, all identified by trademarks, create security risks for these types of shipments, the personnel handling them, and the general public. For example, on August 14, 1996, gunmen robbed a fully loaded passenger airliner while on the runway in southern France. The Airbus A–320 was stopped on the runway and the thieves went directly to the rear cargo hatch and unloaded 60 pounds of French bank notes. The captain of plane reported that they appeared to know exactly what they were looking for. One can reasonably expect that this type of incident will increase if manifest data is made public and the criminal element transforms innocent data into precision strike capabilities. Additionally, as air carriers routinely use ground transportation to complete the transportation cycle, the same can be said about increases in truck hijacking.

Corporate Espionage

The second problem created by the Anticounterfeiting Act will be corporate espionage. Historically, the shipper and forwarder community have maintained that the identities of shipper and consignee are confidential information. In essence, public access to this type of data will allow the reconstruction of customer lists. No company or industry would produce and publicly post its customer list, yet this is what Public Law 104–153 will accomplish.

For years shippers have found comfort in the confidentiality of their customer information when shipping by air. In fact, in 1989 when Customs introduced regulations that required shipper and consignee information to appear on air cargo manifests, exporters and importers vehemently opposed it. Although it is a legal responsibility of the carriers to manifest goods, Customs officials conceded to the industry objections by allowing confidential and direct submission of shipper and consignee data to Customs.

Although there is a provision for shippers to request customer confidentiality, that provision is weak in that it requires the request to be made every two years. Additionally, shippers have criticized Customs' ability to maintain confidentiality as the mechanism to do so is based on an exact spelling of the customer's name. Further, other vital data such as commodity description and transportation details remain public.

Aiding the Counterfeiter

Those involved in trafficking of counterfeit goods or services will find favor with the provisions cited in the Anticounterfeiting Act. Not only will this amendment provide little assistance in the interdiction of counterfeit goods but it will furnish valuable trademark data that can be used to create useful marketing summary information that will enable counterfeiters and thieves to work smarter and more efficiently.

Simple analysis of air cargo manifest data outfits the counterfeiter with very useful market information such as current product popularity, consumer preferences, potential future products, and other market trends. The result is the counterfeiter will do what he or she is doing today only better and smarter, with enhanced accuracy. For example, someone interested in pirating a legitimate product needs only to view public manifest data that bears trademark information to see which goods are currently popular in the market place.

Air Carrier Development Costs

Cargo manifest regulations have never obligated air carriers to report shipment trademark information. Therefore, carriers do not posses the ability to capture, manage and report this level of information. Cargo reservation and tracking system modifications required to comply with the law would result in unrecoverable development costs totaling in the millions of dollars. That expense, without benefit to the customer or the carrier, cannot be justified. Moreover, in the interest of maintaining the highest possible level of cargo security, it is questionable that shippers would willingly provide trademark information to air carriers and other transportation entities.

Conclusion

As the Anticounterfeiting Consumer Protection Act of 1996 cites organized crime activity as one of the principal concerns of counterfeiting, it must look at the potential misuse of public manifest data. Clearly the likelihood of increased criminal activity, fostering of corporate espionage and augmenting the counterfeiter's capabilities outweigh the hoped for achievements by the Act. Other options to achieve secure marketing opportunities for legitimate businesses while at the same time protecting the transportation industry from criminal activity must be given a chance to be explored.

As most of the data required in the Act, except trademark information, is provided to U.S. Customs in a secure environment today, the air industry is not overly concerned with data elements. It is public access to which strongly object. Further, the Act does not state how owners of copyrighted and trademarked products would use the information and why public access is necessary to achieve the objective. Opening manifest data to the universe so that a select group can review it for its own purposes will produce a Pandora's box of issues.

Furthermore, the owners of trademark and copyright products have never approached the air cargo industry to investigate a cooperative and coordinated effort to prevent the transportation of counterfeit goods. At a minimum, the opportunity to explore mutually beneficial strategies needs to takes place before laws and regulations are passed. Clearly this is not the case with the events leading to Public Law 104–153, and the notice of proposed rule making imposing the needs of one industry on another is premature and unwarranted.

It is therefore ATA's recommendation that representatives of the owners or authorized users of trademarks and air cargo industry representatives establish a working group to address these issues. Industries working together can create a balanced solution that achieves mutually beneficial results. One possible solution is that trademark owners work directly with Customs in private as needed to review manifest data rather than implement total public access.

We would be pleased to head up this working group and to discuss these comments and recommendations in more detail. ATA looks forward to working with the trademark industry and government agencies to improve counterfeiting detection while maintaining a secure information environment.

Respectfully submitted:

AIR TRANSPORT ASSOCIATION OF AMERICA
WILLIAM VAN DEVENTER
Director, Cargo Facilitation

Dated: August 15, 1997

Communications regarding this testimony should be addressed to: William Van Deventer, Director, Cargo Facilitation, 202–626–4216 or Janet Thomas, Director, Passenger Facilitation, 202–626–4236

Comments of the American Automobile Manufacturers Association

The American Automobile Manufacturers Association ("AAMA") and its member companies—Chrysler Corporation, Ford Motor Company and General Motors Corporation—appreciate the opportunity to comment on several pieces of legislation which would correct certain technical deficiencies in recently enacted trade legislation.

Three pieces of legislation which the Subcommittee is considering are of particular interest to AAMA. The first bill would amend section 505(c) of the Tariff Act of 1930 (19 U.S.C. 1505(c)) to clarify that Customs must refund interest payable on refunds of duty arising from NAFTA claims under 19 U.S.C. 1520(d) for the full period from the date of payment to the Government to the date of liquidation. Under current law, Customs is required to refund interest only for the period from the date of filing the claim to the date of liquidation.

Section 505(c) of the Tariff Act of 1930 (19 U.S.C. 1505(c)), as amended by section 642 of Customs Modernization Act (enacted as Title VI of the North American Free Trade Agreement (NAFTA) Implementation Act), sets forth the rules for calculating interest on underpayments and overpayment of duties, fees and taxes arising out of the importation of merchandise. With respect to overpayments, prior to enactment of Public Law 104–295 last year, the law provided that interest on the deposited duties, fees and taxes accrued from the date of deposit to the date of liquidation or reliquidation of the entries in question.

Section 2 of the Miscellaneous Trade and Technical Corrections Act of 1996, Public Law 104–295, amended section 1505(c) to provide an exception with respect to the payment of interest for a single class of overpayments; monies paid on goods that are later determined to be eligible for NAFTA preferential tariffs. For these overpayments interest runs from the date on which the claim for the preferential tariff was filed to the date of liquidation or reliquidation.

The proposed legislation would reverse the change that resulted from the amendment made by Public Law 104–295. The amendment upset a fair and equitable arrangement in which both importers and the Government were placed on equal footing when it came to paying interest. Moreover, the law does not permit importers to claim the NAFTA tariff preference until the importer has a certificate of origin in its possession. Thus, at the time of entry, the importer is required to post the full duties on the merchandise and the Government has full use of that money until it is refunded. There is nothing that distinguishes a refund of duties arising from a valid claim for a NAFTA preference from the refund of duties arising from any other valid claim. The provision would reinstate the original language.

AAMA member companies often file valid claims for the NAFTA preferential duties after merchandise is imported. Consequently, our members are not being paid interest for the full period that the Government has the use of their money. AAMA supports this corrective legislation.

The second bill amends section 520(d) of the Tariff Act of 1930 (19 U.S.C. 1520(d)), relating to goods qualifying under NAFTA rules of origin, to clarify that merchandise processing fees (MPFs) may be refunded along with excess duties if NAFTA-eligibility is proved.

Sections 201 and 202 of the North American Free Trade Agreement (NAFTA) Implementation Act, Public Law 103–182, provide a tariff preference for qualifying goods. Section 204 of the Act exempts Canadian-origin goods, and after June 29, 1999, Mexican-origin goods, from customs user fees (19 U.S.C. 58c). Section 206 of the Act added Section 520(d) of the Tariff Act of 1930 (19 U.S.C. 1520(d)). It authorizes the Customs Service to reliquidate an entry to refund any "excess duties" paid on a good qualifying under the rules of origin for which no claim for preferential tariff treatment was made at the time of importation. Customs takes the position that the reference to "excess duties" precludes it from refunding the customs user fees that were paid at the time of entry, even though the exemption from fees, like the claim for preferential tariff treatment, could not have been made at that time. The legislation makes clear that the Customs Service is authorized to refund any fees imposed under 19 U.S.C. 58c that were paid at the time of entry.

In a ruling issued by the Customs Service, the agency took the position that the term "excess duties" in section 520(d) should be construed to exclude the refund of customs user fees. Customs has interpreted the law in a way that is inconsistent with the clear Congressional mandate that neither duties nor customs user fees are payable on imported Canadian goods that qualify for the NAFTA preference (and, in the future, Mexican goods that so qualify). The amendment would leave no doubt that such fees may be refunded pursuant to a claim filed under section 520(d).

AAMA member companies import more goods subject to NAFTA preferential tariff treatment than any other industry and file more post-importation claims for refunds of duties and MPFs. Customs position that MPFs are not refundable is depriving each company of a very significant amount of money. Thus, AAMA supports this legislation which would clarify the law.

The third bill would amend section 514(a) of the Tariff Act of 1930 (19 U.S.C. 1514(a)) to ensure that if an importer is entitled to a NAFTA tariff preference, there is a method for obtaining a refund of duties paid at the time of entry. Under the bill, the NAFTA tariff preference and exemption from customs user fees under 19 U.S.C. 58c would be listed as one of the specific categories of decisions that an importer may protest.

Under 19 U.S.C 1514, decisions of the Customs Service are final and conclusive on all persons, including the United States, unless a protest is filed. However, Customs has taken the position with respect to post-importation claims for the tariff preference under NAFTA, that the protest procedure under section 514 is not available to importers; that the only available remedy is to file a claim for a refund under section 520(d).

Traditionally, the liquidation or reliquidation of any entry embodies all Customs decisions, including the admissibility of the goods, and the correctness of the valuation, classification, rate and amount of duty, and entitlement to a tariff preference. Even where Customs' decision is based on information provided by the importer, the liquidation or reliquidation may be protested. The filing of a protest prevents the liquidation from becoming final. Customs' position that the protest procedure is not available to importers who do not claim the NAFTA tariff preference at the time of entry is questionable. Existing section 520(d), added to the law by the NAFTA Implementation Act, begins with the statement, "Notwithstanding the fact that a valid protest was not filed, the Customs Service may reliquidate an entry to refund any excess duties . . . ." This statement has been interpreted in other instances to mean that, if a valid protest was filed, Customs could have considered and allowed the importer's claim under the protest procedure. The amendment to section 514 make absolutely clear that section 514 is the primary remedy available to importers for making post-importations NAFTA preference claims, and that section 520(d) is, like section 520(c), an extraordinary remedy that may be used when a liquidation has become final and the protest procedure is not available.

Although AAMA members generally have no problem obtaining refunds of duties using the 520(d) procedure, there are instances when the required certificate of origin is received more than a year after importation, thus precluding the filing of a 520(d) claim. Where a certificate of origin establishes that the Government is not entitled to the duties paid at the time of entry, there should be a method for obtaining a refund of those duties. Thus, AAMA supports this amendment which would make clear that the protest procedure under section 514 could be used to obtain a refund of such duties.

AMERICAN WATCH ASSOCIATION
COALITION TO PRESERVE THE INTEGRITY OF AMERICAN TRADEMARKS
INTERNATIONAL ANTICOUNTERFEITING COALITION
August 15, 1997

A.L. Singleton, Chief of Staff
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Re: Comments on Item 7 of Miscellaneous Corrections to Trade Legislation and Miscellaneous Duty Suspension Bills

Dear Mr. Singleton:

MEMBERS OF IACC, COPIAT AND AWA STRONGLY OPPOSE ANY LEGISLATION TO LIMIT OR REPEAL THE MANIFEST DISCLOSURE REQUIREMENTS OF THE ANTICOUNTERFEITEING ACT.

We are writing on behalf of the International Anticounterfeiting Coalition ("IACC"), the Coalition to Preserve the Integrity of American Trademarks ("COPIAT"), and the American Watch Association ("AWA") to oppose the manifest disclosure legislation referenced in item 7 of the Proposed Miscellaneous Corrections. Specifically, item 7 states the following—

"Section 431 of the Tariff Act of 1930 outlines the requirements for public disclosure of manifest information. On July 2, 1996, the President signed the Anticounterfeiting and Consumer Protection Act of 1996 [P.L. 104–153], which amended section 431(c)(1) to require public disclosure of vessel and aircraft manifest information, as well as additional requirements as to the content of such information. On October 11, 1996, the President signed into law the Miscellaneous Trade and Technical Corrections Act of 1996 [P.L. 104–295], which amended section 431(c)(1) to require public disclosure of vessel manifest information only, and makes no additions to the law regarding the content of such information. Given the potentially conflicting interpretations of these laws, legislation may be needed to clarify that the language contained in the Miscellaneous Trade and Technical Corrections Act of 1996 reflects Congressional intent." (emphasis added)

Contrary to the statement made in the final sentence of item 7, any amendment that would prohibit public disclosure of aircraft manifests or trademark information under section 431(c)(1) of the Tariff Act or eliminate the new Customs entry documentation requirements under section 484(d)(2) would directly contravene clear Congressional intent under the Anticounterfeiting Consumer Protection Act of 1996 (the "Anticounterfeiting Act").

THE ANTICOUNTERFEITING ACT REFLECTS CLEAR CONGRESSIONAL INTENT TO COMBAT COUNTERFEIT IMPORTS THROUGH DISCLOSURE OF AIR MANIFESTS AND TRADEMARK INFORMATION APPEARING ON IMPORTED MERCHANDISE.

The Anticounterfeiting Act amended Section 431(c)(1) of the Tariff Act [1] to require the Customs Service to disclose aircraft manifests, in addition to sea vessel manifests, and to disclose the trademark information contained in such manifests. As a related measure, the Act also amended section 484(d)(2) of the Tariff Act [2] to require importers to disclose on entry documentation any information necessary to determine whether imported merchandise bears an infringing trademark, including the trademarks appearing on goods or packaging. Both amendments to the Tariff Act reflect Congress's clear and well-reasoned decision to facilitate identification of counterfeit imports by increasing public access to Customs import information. To repeal these recent amendments—and thereby override clear Congressional intent—in the context of a technical corrections law would be wholly inappropriate without opportunity for debate and public hearings.

On July 2, 1996, the President signed the Anticounterfeiting Act following unanimous approval by the House and Senate. This law represents the most important anticounterfeiting legislation in over a decade, significantly strengthening the remedies and enforcement tools available to combat counterfeit imports, including increased public access to manifest information filed by importers of potentially infringing goods. IACC, COPIAT and AWA, which each represent many of America's

[1] 19 U.S.C.§ 1431(c)(1).
[2] 19 U.S.C.§ 1484(d)(2).

leading manufacturers, strongly endorsed the Anticounterfeiting Act, as did the International Trademark Association, the Business Software Alliance, the National Consumers League and several other associations and manufacturers. Over the past several years, IACC, COPIAT and AWA have actively promoted laws, regulations and directives designed to render theft of intellectual property undesirable and unprofitable.

Congress enacted the Anticounterfeiting Act to combat what has become a multibillion dollar parasite on legitimate U.S. businesses, workers and taxpayers and a continuing source of consumer injury. In the legislative history accompanying the Anticounterfeiting Act, the House Judiciary Committee reported that counterfeiting costs U.S. businesses more than $200 billion each year. Much of the counterfeit trade is now operated through the same crime syndicates involved in drug smuggling, prostitution and illegal arms sales. For these organized criminals, counterfeiting represents a low-risk and highly profitable source of illegal income, as well as a convenient channel to launder proceeds from other illegal activities.

Counterfeiting also poses very serious dangers to the consumer. Counterfeit automobile and aircraft parts have been linked to fatal crashes. Consumer injuries have also resulted from sales of counterfeit shampoos, pharmaceuticals, and toys. One of the more recent and disturbing cases of criminal counterfeiting involved the distribution of counterfeit baby formula.

Despite the growing seriousness of the problem, the laws and resources available prior to the Anticounterfeiting Act were completely inadequate to halt the flow of counterfeit imports. Because of limited resources and despite its best efforts, the U.S. Customs Service was able to stop only a small fraction of the counterfeit merchandise imported into the United States each year. In addition, while criminal penalties existed, the deterrent effect was minimal because federal prosecutors rarely initiated criminal counterfeiting actions. Finally, trademark and copyright owners, who regularly invest millions of dollars in private enforcement actions, often could not obtain the Customs information necessary to identify counterfeit imports.

By enacting the Anticounterfeiting Act, Congress sought to remedy each of these defects in existing law, including inadequate disclosure of Customs import information. Congress approved the Tariff Act amendments in order to facilitate both Customs and private enforcement against counterfeiters through greater disclosure of the information necessary to identify potentially infringing imports.

THE DISCLOSURE OF AIR MANIFESTS AND TRADEMARK INFORMATION IS CRITICAL TO THE IDENTIFICATION AND SEIZURE OF COUNTERFEIT IMPORTS.

IACC, COPIAT and AWA members rely heavily on the manifest disclosure requirements of Section 431(c)(1) of the Tariff Act to protect their intellectual property rights and the consumer against counterfeit imports. The manifest information compiled and published by trade publications is often the manufacturer's only notice that infringing imports have entered the United States, and their only opportunity to prevent distribution throughout the country.

Despite the critical importance of manifest information to anti-counterfeiting enforcement efforts, the Customs Service has limited disclosure in at least two important respects: (i) by narrowly interpreting Section 431(c)(1) of the Tariff Act to require disclosure of sea manifests only (See 19 C.F.R. § 103.14); and (ii) by not requiring importers to disclose the specific trademarks appearing on imported goods or packaging (See Customs Form 3461 ("Entry/Immediate Delivery")).

Air manifest disclosure under Section 431(c)(1):

Prior to the Anticounterfeiting Act, Section 431 read as follows—

"(a) In general.

Every vessel required to make entry under Section 1434 of this title or obtain clearance under section 91 of the Appendix to Title 46 shall have a manifest that complies with the requirements prescribed under subsection (d) of this section.

(b) Production of manifest

Any manifest required by the Customs Service shall be signed, produced, delivered or electronically transmitted by the master or person in charge of the vessel, aircraft, or vehicle . . . in accordance with the requirements prescribed under subsection (d) of this section . . . If any irregularity or omission or commission occurs in any way in respect to any manifest or bill of lading data, the owner or operator of the vessel, aircraft or vehicle . . . shall be liable for any fine or penalty prescribed by law with respect to such irregularity . . .

(c) Public disclosure of information.

(1) Except as provided in subparagraph (2), the following information, when contained in such manifest, shall be available for public disclosure." (emphasis added)[3]

The Customs Service historically has construed the phrase "such manifest" in Section 431(c)(1) to mean a sea vessel manifest, even though the reference to "vessel, aircraft or vehicle" manifests in subsection (b) arguably warrants a broader interpretation. In fact, the different treatment between sea and air manifests is without self-evident justification or statutory support. Certainly, nothing in the respective natures of sea as opposed to air transport suggests a basis for disparate treatment. Moreover, the legislative history to Section 431(c)(1) fails to distinguish between sea and air manifests, suggesting that the omission of the word "aircraft" results from historical artifact, inadvertent omission or both. From an enforcement perspective, the failure to dislose air manifests has left a gaping hole in border control and provided counterfeiters with a "safe" means of transport into the country.

Nevertheless, the Customs Service has steadfastly refused to deviate from its narrow interpretation of Section 431(c)(1), despite the compelling policy reasons for doing so. Indeed, prior to the Anticounterfeiting Act, COPIAT members petitioned the Customs Service to amend its regulations to permit air manifest disclosure. The Customs Service rejected the petition, arguing (unconvincingly in COPIAT's view) that the Service lacked the statutory authority to make such a regulatory change.

Customs entry disclosure:

Similarly, COPIAT petitioned Customs to modify its customs entry documentation to require disclosure of trademark and other information necessary to identify counterfeit imports (and deter counterfeiters). (At present, importers are required to disclose only the generic category of goods.) The requested change could easily have been accomplished through minor revisions to current documentation. Nevertheless, the Customs Service again refused the request, arguing that the administrative costs and burdens of implementing the proposal outweighed the potential benefits.

Accordingly, IACC, COPIAT and AWA sought disclosure of air manifests and trademark information under the Anticounterfeiting Act. Prior to enactment, the Senate and House Judiciary Committees carefully considered the proposed amendments to the Tariff Act and unanimously decided that the benefits of improved enforcement—in terms of consumer health and safety, law enforcement, and intellectual property protection—more than justified the relatively minor increase in administrative costs and burden.

Significantly, the Customs Service reviewed the Anticounterfeiting bill in its entirety prior to the Senate and House hearings and failed to submit any comments or testimony opposing the manifest disclosure requirements. In fact, a Customs official, Deputy Assistant Commissioner of Investigations Leonard S. Walton, testified in support of the Anticounterfeiting bill during both hearings. Similarly, it is our recollection that, prior to the enactment of the Anticounterfeiting bill, John Bliss, President of the IACC, met with and personally discussed all provisions of the bill (including the manifest disclosure requirements) with Steve Whittaker, trade counsel for House Ways and Means Trade Subcommittee Chairman, Rep. Philip Crane.

THE MISCELLANEOUS TRADE ACT DOES NOT AFFECT CONGRESSIONAL INTENT TO REQUIRE DISCLOSURE OF AIR MANIFESTS AND TRADEMARK INFORMATION UNDER THE ANTICOUNTERFEITING ACT. THUS, THE PROPOSED AMENDMENTS TO THE TARIFF ACT ARE UNNECESSARY AND INAPPROPRIATE.

Given Congress' unanimous and carefully considered decision to require increased manifest disclosure, it is unclear why the Miscellaneous Trade Act retained the Section 431(c)(1) amendment, particularly since the Trade Act does nothing to alter the effect of the Anticounterfeiting Act. The Miscellaneous Trade Act amendment does nothing more than add the word "vessel" to Section 431(c)(1) without limiting the disclosure of "aircraft" manifests or the trademark information contained in aircraft or vessel manifests. Moreover, the Miscellaneous Trade Act makes no change whatsoever to the new entry documentation requirements of Section 484(d)(2). Accordingly, it could not have been Congress' intent to repeal the Anticounterfeiting Act amendment, as suggested by the House Ways and Means Committee Advisory.

To the contrary, the Anticounterfeiting Act remains the definitive statement of Congressional intent with respect to Sections 431(c)(1) and 484(d)(2) of the Tariff Act. As evidence of this, the United States Code Service gave full effect to the Anticounterfeiting Act amendments when publishing these revised sections of the Tariff Act.

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[3] Subsection (c)(2) denies disclosure upon an appropriate finding of confidentiality; subsection (d) authorizes Customs to prescribe by regulation the form of the manifest.

Following enactment of the Miscellaneous Trade Act, the House Subcommittee on Courts and Intellectual Property took immediate steps to address and conclusively resolve any conflict between the Anticounterfeiting Act and the Miscellaneous Trade Act. Specifically, Chairman Carlos Moorhead on December 4, 1996 sent a letter (attached as Exhibit 1) to Commissioner of Customs George Weise to confirm Congressional intent to require public disclosure of aircraft manifests. The letter directed Commissioner Weise to construe the Miscellaneous Trade Act amendment to Section 431(c)(1) as a "minor change that should not affect the interpretation of the Anticounterfeiting Law." The letter further stated—

"However, to the extent that there is any ambiguity, I can assure you that it was the intent of the Congress in passing the Anticounterfeiting bill that the public disclosure of certain manifest information applies to both aircraft and vessel manifests. This issue was fully explored at the Subcommittee hearing held on December 7, 1995. After careful consideration, the Members of the Subcommittee, and ultimately the entire Congress, voted unanimously to approve the bill with that provision. Although it could possibly lead to slightly higher administrative costs of record keeping, Members of Congress clearly believed that this potential cost is more than outweighed by the benefits of better enforcement." (emphasis added)

On June 9, 1997, the new Chairman of the Intellectual Subcommittee Howard Coble, together with full Committee Chairman Hyde and other Members of Congress, sent a second letter to Commissioner Weise (attached as Exhibit 2), confirming once again Congressional intent to require air manifest disclosure, as well as the disclosure of trademarks on entry documentation. This second letter also reminded Commissioner Weise of the Service's obligation under the Anticounterfeiting Act to promulgate implementing regulations.

The House Ways and Means Committee Advisory now suggests under item 7 that the Miscellaneous Trade Act might be construed as a deliberate decision by Congress to override these important, substantive provisions of the Anticounterfeiting Act. Clearly, this interpretation of the Miscellaneous Trade Act does not reflect Congressional intent, nor can it be justified on the basis of statutory language or any other grounds. Moreover, in the absence of hearings or formal consideration of the issue, a technical corrections law is not the appropriate vehicle to propose what constitutes a controversial amendment that clearly contravenes prior Congressional intent.

Accordingly, IACC, COPIAT and AWA urge the House Ways and Means Committee to abandon the legislative proposal referenced in item 7. In addition, to avoid any further debate or doubt regarding Congressional intent, we ask the Committee to repeal the amendment to Section 431(c)(1) under the Miscellaneous Trade Act.

We appreciate the opportunity to comment on the proposed legislation.

Very truly yours,

CHARLES E. BUFFON
LAURIE C. SELF
Counsel to COPIAT & AWA
JOHN S. BLISS
President of IACC
EMILIO G. COLLADO
Executive Director of COPIAT & AWA

[The attachments follow:]

EXHIBIT 1

002

ONE HUNDRED FOURTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY

2138 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6216

(202) 225-3951

December 4, 1996

Mr. George Weise
Commissioner
U.S. Customs Service
1301 Constitution Avenue, N.W.
Washington, D.C. 20229

Dear Commissioner Weise:

On July 2, 1996, President Clinton signed the Anticounterfeiting Consumer Protection Act of 1996 into law (Public Law 104-153). This legislation had broad bipartisan support in both the Senate and the House of Representatives. The bill passed by unanimous consent in both bodies. One of the key provisions of this legislation is Section 11 relating to public disclosure of aircraft manifests. In Section 11, Congress amended Section 431(c)(1) of the Tariff Act of 1930 to ensure that the Customs' Service's duty to publicly disclose certain manifest information applies to both vessel and aircraft manifests.

I understand that another bill, the Miscellaneous Trade and Technical Corrections Act of 1996, contained a provision that also amended Section 431(c)(1) of the Tariff Act of 1930. This legislation was signed by the President on October 11, 1996 and became Public Law 104-295. Section 3(a)(3) of P.L. 104-295 made a minor change that should not affect the interpretation of the Anticounterfeiting law.

However, to the extent that there is any ambiguity, I can assure you that it was the intent of the Congress in passing the Anticounterfeiting bill that the public disclosure of certain manifest information applies to both aircraft and vessel manifests. This issue was fully explored at the Subcommittee hearing held on December 7, 1995. After careful consideration, the Members of the Subcommittee, and ultimately the entire Congress, voted unanimously to approve the bill with that provision. Although it could possibly lead to slightly higher administrative costs of record keeping, Members of Congress clearly believed that this potential cost is more than outweighed by its benefits of better enforcement.

As your agency begins to implement the provisions of these public laws and adopt related regulations, I ask that you give full consideration to the intent of the Congress in passing the Anticounterfeiting Consumer Protection Act of 1996.

Sincerely,

Carlos J. Moorhead

Carlos J. Moorhead
Chairman, Subcommittee on Courts
and Intellectual Property

EXHIBIT 2

June 9, 1997

Honorable George Weise
Commissioner
U.S. Customs Service
1301 Constitution Avenue, N.W.
Washington, D.C. 20229

Dear Commissioner Weise:

On July 2, 1996, President Clinton signed into law the "Anticounterfeiting Consumer Protection Act of 1996" (Public Law 104-153). This legislation, introduced by Congressman Bob Goodlatte, had broad bipartisan support in both the Senate and the House of Representatives and was passed by unanimous consent in both bodies.

This law requires the U.S. Customs Service to promulgate new regulations. Specifically, P.L. 104-153 allows Customs to fine "any person who directs, assists financially or otherwise, or aids and abets the importation of merchandise for sale or public distribution that is seized under subsection (e)...". Aggressive use of this power to fine counterfeiters and destroy counterfeit goods will have an immediate deterrent effect on counterfeiters.

The new law also requires the U.S. Customs Service to make available for public disclosure information related to counterfeit goods that are sent by air. In the past, Customs could only release information relating to shipments by sea.

This key provision was intended to ensure that the U.S. Customs Service's duty to publicly disclose certain manifest information applies to both vessel and aircraft manifests. We understand that another bill, the "Miscellaneous Trade and Technical Corrections Act of 1996", contained a provision that also amended Section 431(c)(1) of the Tariff Act of 1930. This legislation was signed by the President on October 11, 1996 and became Public Law 104-295. Section 3(a)(3) of P.L. 104-295 made a minor change that should not affect the interpretation of the anticounterfeiting law.

However, to the extent that there is any ambiguity, we can assure you that it was the intent of the Congress that the public disclosure requirement of certain manifest information applies to both aircraft and vessel manifests. This issue was fully explored at the Subcommittee hearing held on December 7, 1995. After careful consideration, the Members of the Judiciary Committee, and ultimately the entire Congress, voted unanimously to approve the bill with that provision. Although this new requirement

Honorable George Weise
U.S. Customs Service

June 9, 1997
Page 2

could possibly lead to slightly higher administrative costs for record keeping, Members of Congress clearly believed that this potential cost is more than outweighed by its benefits of more effective enforcement.

Finally, P.L. 104-153 authorizes Customs to promulgate regulations to include information regarding trademarks on entry documentation. This information will assist Customs in determining whether the trademarks are genuine.

We have been advised for some time that the U.S. Customs Service is nearing release of these new regulations. Anything you can do to expedite this process would be extremely helpful.

Sincerely,

HENRY J. HYDE
Chairman

JOHN CONYERS
Ranking Member

HOWARD COBLE
Chairman
Subcommittee on Courts and
Intellectual Property

BARNEY FRANK
Ranking Member
Subcommittee on Courts and
Intellectual Property

BOB GOODLATTE
Member of Congress

Comments of Eastman Kodak Company

1. THE ANTICOUNTERFEITING ACT OF 1996 PROVISIONS ON INFORMATION DISCLOSURE SHOULD REMAIN IN THE LAW AND SHOULD BE IMPLEMENTED.

Eastman Kodak Company (Kodak) submits this statement in support of vigorous implementation of the air manifest provisions of the Anticounterfeiting Consumer Protection Act of 1996, (Pub. L. No. 104–153, 110 Stat. 1386 (1996)), and against the proposed amendment suggested in Item 7 of the Proposed Miscellaneous Corrections in the Committee's Advisory of June 30, 1997, No. TR–10. The Anticounterfeiting Act of 1996 amended 19 U.S.C. § 1431(c)(1) to require public disclosure of aircraft as well as vessel manifest information and to specify additional information (including trademarks on goods or packages) to be disclosed when contained in a manifest. These amendments were designed to enhance protection for intellectual property in the form of trademarks, an objective consistent with the U.S. Government's increased recognition of the importance of intellectual property to U.S. competitiveness.

Kodak recognizes that another bill, the Miscellaneous Trade and Technical Corrections Act of 1996, (Pub. L. No. 104–295, 110 Stat 3514 (1996)) touched on the manifest issue. However, the specific provision of the Anticounterfeiting Act of 1996 requiring disclosure of air manifest information reflected Congressional intent, and the Miscellaneous Trade bill did not alter this mandate. Accordingly, we strongly disagree with the suggestion in Item 7 of the Committee Advisory that "legislation may be needed to clarify that the language contained in the Miscellaneous Trade and Technical Corrections Act of 1996 reflects Congressional intent." As explained below, further amendment is unnecessary.

While there may be differing views from our own on this issue, we submit that a technical corrections bill would be an inappropriate vehicle for addressing those differences, since the change suggested in Item 7 of the Advisory is not uncontroversial.

2. THE DISCLOSURE PROVISIONS OF THE ANTICOUNTERFEITING ACT OF 1996 ARE NECESSARY FOR EFFECTIVE CUSTOMS SERVICE ENFORCEMENT AND TO PROTECT TRADEMARKS AND THEIR CONTRIBUTION TO U.S. COMPETITIVENESS.

The defense of U.S. industry against trademark counterfeiting is essential to the competitiveness and strength of our economy. If counterfeiting is tolerated, the efforts of companies that have built a reputation for excellence are unfairly undercut by producers and purveyors of low quality knockoffs. It is now universally understood that U.S. competitiveness rests on solid protection for the intellectual property of U.S. citizens and firms.

Kodak is the leading manufacturer of consumer imaging products, with a brandname recognized worldwide. That universal recognition requires us to be on guard against counterfeiters who frequently seek to misappropriate our trademarks and mislead our customers with fraudulent products. Previously, U.S. law did not provide law enforcement officials with sufficiently adequate tools to confront this problem effectively, nor did it provide us with the ability to obtain sufficient information necessary to assist enforcement officials. In fact, the anomaly that sea cargo manifest information, but not air manifest information, was disclosed has often led counterfeiters to exploit this loophole by using aircraft as their transportation means of choice. The Anticounterfeiting Act of 1996 addressed this situation, among others. We were particularly pleased with the Act's expanded Customs reporting requirements.

Kodak and other firms supported the disclosure provisions of the Anticounterfeiting Act of 1996 in order to achieve the same public disclosure of air cargo manifest information as previously required for sea cargo manifests and to have shippers specify the trademarks appearing on the goods or packages. It is generally understood that enforcement by the Customs Service against infringing products requires the cooperation of industry. Kodak has cooperated with U.S. Customs whenever questionable shipments were discovered, to help keep goods with counterfeit trademarks from entering the country. The new information required to be disclosed under the Anticounterfeiting Act of 1996 would further assist us in our work with Customs to identify counterfeit merchandise and the location of the counterfeiters.

3. Congressional intent to strengthen information disclosure requirements to protect trademarks is reflected in the Anticounterfeiting Act of 1996 and was not disturbed by the Miscellaneous Trade Act.

Item 7 of the Committee's Advisory implies that there is a question whether Congressional intent on disclosure of information is reflected in the provisions of the Anticounterfeiting Act of 1996 requiring disclosure of air manifest information. We believe that the Anticounterfeiting Act of 1996 does express Congressional intent.

Apparently, for historical reasons, the Customs Service routinely disclosed information on goods shipped by sea but not by air. There was no evident policy basis for drawing this distinction. We believe that the matter could have been corrected administratively, but Congress put the question beyond doubt by enacting the Anticounterfeiting Act of 1996 amendment explicitly adding to the law a reference to disclosure of air manifest information.

The original law stated that certain information, "when contained in such manifest, shall be available for public disclosure." The Anticounterfeiting Act of 1996 added the phrase "vessel or aircraft" before the word "manifest" to make clear that disclosure is required of information when contained in a "vessel or aircraft manifest." (Pub. L. No. 104–153, § 11, 110 Stat. 1386 (1996)). A technical provision of the Miscellaneous Trade and Technical Corrections Act of 1996 directed the substitution of "a vessel manifest" for "such manifest." (Pub. L. No. 104–295, § 3, 110 Stat. 3514 (1996). This provision had an effective date of December 8, 1993, prior to Pub. L. No. 104–153, § 11, 110 Stat. 1386 (1996)). The Congressional intent reflected in the Anticounterfeiting Act of 1996 to require disclosure of air manifest information was not disturbed by the amending process. The statute has been codified in the United States Code Annotated as providing that the specified information "when contained in a vessel manifest or aircraft manifest, shall be available for public disclosure." (See 19 U.S.C.A. § 1431(c)(1) (Supp. 1997) and accompanying note on Codification).

Whether the imprecision of the amendment contained in the Miscellaneous Trade bill was inadvertent or reflected an ineffective attempt to achieve a different result, when the dust settled, it remained that disclosure of air manifest information is what Congress intended and what is required. (In support of this conclusion regarding Congressional intent, see also the attached letters from Congressional sponsors of the Anticounterfeiting Act of 1996.) Accordingly, the issue of a possible conflict between the Anticounterfeiting Act of 1996 and the Miscellaneous Trade Act raised in Item 7 of the Committee Advisory should not arise, and the question implied in Item 7 whether legislation is needed to reflect some intent on information disclosure other than that of the Anticounterfeiting Act of 1996 must be answered in the negative.

We note also that the Miscellaneous Trade Act did not address at all the new requirements added by the Anticounterfeiting Act of 1996 relating to the disclosure of additional information (including trademarks on goods or packages) contained in a manifest. (See e.g., 19 U.S.C.A. § 1431(c)(1)(H) (Supp. 1997); 19 U.S.C.A. § 1484(d)(2) (Supp. 1997)). Therefore, for this additional reason, if Item 7 of the Committee Advisory was intended to pose the question of whether there is a need for legislation on this issue, the answer should also be in the negative.

4. Nullification of the Anticounterfeiting Act of 1996's strengthened disclosure requirements should not be considered on a technical corrections bill.

Those who believe that the statute should not require disclosure of air manifest information are, of course, free to pursue normal channels to make their case for change. Such normal channels would entail full Congressional deliberations in which Kodak and others would again make the case for disclosure. At the end of that process, we are confident that Congress would again conclude that the approach of the Anticounterfeiting Act of 1996 was correct and would reject any effort to delete from the law the requirement to disclose air manifest information. However, consistent with normal practice, we hope the Committee will agree that it is inappropriate to include such a controversial proposal in the technical, Miscellaneous Corrections legislation which is the subject of the Committee's Advisory of June 30, 1997.

Conclusion

Protection of trademarks from the predations of counterfeiters is vital to the health of American industry and the American economy. The law is designed to prevent the erosion of incentives for industry efforts to establish and maintain a reputation for excellence. The more successful American companies are, the more we become targets for counterfeiters who seek to misappropriate our trademarks and to mislead our customers with fraudulent products. Success in the global marketplace, therefore, makes protection of U.S. trademarks all the more important. Disclosure of air manifest information with the contents specified in the law, as amended by the Anticounterfeiting Act of 1996, is a vital part of the regime protecting trademarks and the benefit to both the U.S. economy and American consumers that flows from properly branded products. Efforts to defeat the Congressional intent underlying the Anticounterfeiting Act of 1996 should be rejected and vigorous implementation of the Act should proceed.

[The attachments follow:]

ONE HUNDRED FOURTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY

2138 Rayburn House Office Building

Washington, DC 20515-6216

December 4, 1996

Mr. George Weise
Commissioner
U.S. Customs Service
1301 Constitution Avenue, N.W.
Washington, D.C. 20229

Dear Commissioner Weise:

On July 2, 1996, President Clinton signed the Anticounterfeiting Consumer Protection Act of 1996 into law (Public Law 104-153). This legislation had broad bipartisan support in both the Senate and the House of Representatives. The bill passed by unanimous consent in both bodies. One of the key provisions of this legislation is Section 11 relating to public disclosure of aircraft manifests. In Section 11, Congress amended Section 431(c)(1) of the Tariff Act of 1930 to ensure that the Customs' Service's duty to publicly disclose certain manifest information applies to both vessel and aircraft manifests.

I understand that another bill, the Miscellaneous Trade and Technical Corrections Act of 1996, contained a provision that also amended Section 431(c)(1) of the Tariff Act of 1930. This legislation was signed by the President on October 11, 1996 and became Public Law 104-295. Section 3(a)(3) of P.L. 104-295 made a minor change that should not affect the interpretation of the Anticounterfeiting law.

However, to the extent that there is any ambiguity, I can assure you that it was the intent of the Congress in passing the Anticounterfeiting bill that the public disclosure of certain manifest information applies to both aircraft and vessel manifests. This issue was fully explored at the Subcommittee hearing held on December 7, 1995. After careful consideration, the Members of the Subcommittee, and ultimately the entire Congress, voted unanimously to approve the bill with that provision. Although it could possibly lead to slightly higher administrative costs of record keeping, Members of Congress clearly believed that this potential cost is more than outweighed by its benefits of better enforcement.

As your agency begins to implement the provisions of these public laws and adopt related regulations, I ask that you give full consideration to the intent of the Congress in passing the Anticounterfeiting Consumer Protection Act of 1996.

Sincerely,

Carlos Moorhead

Carlos J. Moorhead
Chairman, Subcommittee on Courts
and Intellectual Property

ONE HUNDRED FIFTH CONGRESS

Congress of the United States
House of Representatives
COMMITTEE ON THE JUDICIARY
2138 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6216
(202) 225-3951

June 9, 1997

Honorable George Weise
Commissioner
U.S. Customs Service
1301 Constitution Avenue, N.W.
Washington, D.C. 20229

Dear Commissioner Weise:

On July 2, 1996, President Clinton signed into law the "Anticounterfeiting Consumer Protection Act of 1996" (Public Law 104-153). This legislation, introduced by Congressman Bob Goodlatte, had broad bipartisan support in both the Senate and the House of Representatives and was passed by unanimous consent in both bodies.

This law requires the U.S. Customs Service to promulgate new regulations. Specifically, P.L. 104-153 allows Customs to fine "any person who directs, assists financially or otherwise, or aids and abets the importation of merchandise for sale or public distribution that is seized under subsection (e)...". Aggressive use of this power to fine counterfeiters and destroy counterfeit goods will have an immediate deterrent effect on counterfeiters.

The new law also requires the U.S. Customs Service to make available for public disclosure information related to counterfeit goods that are sent by air. In the past, Customs could only release information relating to shipments by sea.

This key provision was intended to ensure that the U.S. Customs Service's duty to publicly disclose certain manifest information applies to both vessel and aircraft manifests. We understand that another bill, the "Miscellaneous Trade and Technical Corrections Act of 1996", contained a provision that also amended Section 431(c)(1) of the Tariff Act of 1930. This legislation was signed by the President on October 11, 1996 and became Public Law 104-295. Section 3(a)(3) of P.L. 104-295 made a minor change that should not affect the interpretation of the anticounterfeiting law.

However, to the extent that there is any ambiguity, we can assure you that it was the intent of the Congress that the public disclosure requirement of certain manifest information applies to both aircraft and vessel manifests. This issue was fully explored at the Subcommittee hearing held on December 7, 1995. After careful consideration, the Members of the Judiciary Committee, and ultimately the entire Congress, voted unanimously to approve the bill with that provision. Although this new requirement could possibly lead to slightly higher administrative costs for record keeping. Members of Congress clearly believed that this potential cost is more than outweighed by its benefits of more effective enforcement.

Finally, P.L. 104-153 authorizes Customs to promulgate regulations to include information regarding trademarks on entry documentation. This information will assist Customs in determining whether the trademarks are genuine.

We have been advised for some time that the U.S. Customs Service is nearing release of these new regulations. Anything you can do to expedite this process would be extremely helpful.

Sincerely,

HENRY J. HYDE
Chairman

JOHN CONYERS
Ranking Member

HOWARD COBLE
Chairman
Subcommittee on Courts and Intellectual Property

BARNEY FRANK
Ranking Member
Subcommittee on Courts and Intellectual Property

BOB GOODLATTE
Member of Congress

INTERNATIONAL TRADEMARK ASSOCIATION
WASHINGTON OFFICE
WASHINGTON, D.C. 20036
August 15, 1997

The Honorable Philip M. Crane, Chairman
Subcommittee on Trade
Committee on Ways and Means
U.S. House of Representatives
233 Cannon House Office Building
Washington, D.C. 20515

Dear Chairman Crane:

The International Trademark Association (INTA) is responding to your Subcommittee's request for comment on Proposal Number # 7 in your June 30 press release, which would eliminate a provision of the Anticounterfeiting Consumer Protection Act of 1996 that relates to the public disclosure of aircraft manifests. In keeping with INTA's support for the entire Act during the 104th Congress, we urge that you take no action to remove the aircraft manifest provision.

INTA is a 119 year-old not-for-profit organization with over 3,400 members in 120 countries. Membership in INTA is open to trademark owners and those who serve trademark owners in their efforts to avoid confusion, deception and unfair trade practices in commerce.. Our members include corporations, law firms, advertising agencies, and professional and trade associations. Despite this diversity, all of INTA's members share a common interest in trademarks and a recognition of the importance of trademarks to their owners, to the general public, and to the economy of the United States.

While INTA is sympathetic to those in the airline industry who are concerned about the delays which might be caused by the public disclosure of aircraft manifests, we are concerned about the fact that counterfeiting of intellectual property remains a $200 billion world-wide industry. The Anticounterfeiting Consumer Protection Act of 1996 continues to represent a positive step forward in the efforts of the public and private sector to combat pirates who prey on the good names of American companies.

Proof of the Act's success can be found in a report on the results of a nationwide law enforcement crackdown on trademark and copyright fraud released in May, 1997, by the U.S. Department of Justice and the Federal Bureau of Investigation (FBI). The report states that 35 indictments were returned in April and May of 1997, and, to date, three individuals have been convicted of conspiracy and trafficking in goods bearing infringing trademarks. In April alone, eight persons pleaded guilty to more than 20 counts of criminal trademark and copyright violations.

The air manifest disclosure provision is an important element of the Act. It was the clear intent of Congress to include this provision, as the following Senate Committee Report language indicates:

"Under current law, the U.S. Customs Service routinely discloses information relating to the nature of shipments imported by sea. This information has proven to be extremely valuable to U.S. trademark holders who are trying to trace or interdict the entry of counterfeit goods.

"Additional authority is needed, however, to disclose the same information for shipments by air. Since most low-weight, high value counterfeits are shipped by air, trademark owners need access to air shipment data as well as sea shipment data if they are to be able to better assist enforcement officials in identifying counterfeiters and stopping the flow of fraudulent goods transported in this manner. Moreover, this provision eliminates the unwarranted and out-of-date distinction between information required about goods shipped by sea as compared to goods shipped by air [emphasis added]."

If the Anticounterfeiting Consumer Protection Act is to remain an effective weapon, then all of its components, including the public disclosure of aircraft manifests, must stay firmly in place. We cannot afford to give away any ground to those who would seek to steal the good names of American companies that have worked so hard to establish a reputation of quality and consistency.

In any event, a substantive change to the Anticounterfeiting Act of this kind should not be considered as part of a process reserved for noncontroversial, technical trade measures. The ramifications of this proposal are far-reaching and impact the effectiveness of the Anticounterfeiting Act. It is not a mere technical clarification. Nor is it noncontroversial.

Should you have any questions or comments concerning INTA's position on this or any other trademark issue, please contact Jon Kent, INTA's Washington Representative, at (202) 223–6222.

Thank you for considering our submission.

Sincerely,

DAVID STIMSON
President

Proposed Miscellaneous Corrections #8

To amend section 505(c) of the Tariff Act of 1930 (19 U.S.C. 1505(c)) to clarify that Customs must refund interest payable on refunds of duty arising from NAFTA claims under 19 U.S.C. 1520(c) for the full period from the date of payment to the Government to the date of liquidation or reliquidation. Under current law, Customs is required to refund interest only for the period from the date of filing the claim to the date of reliquidation.

see also American Automobile Manufacturers Association under Proposed Miscellaneous Corrections #7

see also JBC International under Proposed Miscellaneous Corrections #3

Comments of the Joint Industry Group

The Joint Industry Group ("JIG") appreciates the opportunity to comment on several pieces of legislation which would correct certain technical deficiencies in recently enacted trade legislation.

JIG is a coalition of more than 100 companies, trade associations, professionals and businesses actively involved in international trade. We both examine and reflect the concerns of the business community relative to current and proposed customs-related policies, actions, legislation and regulations, and undertake to improve them through dialogue with the Customs Service, other government agencies and the Congress.

All of the proposed miscellaneous corrections bills for which comments were solicited appear to be meritorious and JIG supports their passage. Some of the bills have been proposed by and would have an immediate benefit to specific industries, particularly the two bills that would amend the drawback law, 19 U.S.C. 1313, but in our view the proposed changes would ultimately benefit many importers and would be consistent with the changes made to the drawback law by Public Law 103–182. Other bills, such as the proposed amendment to 19 U.S.C. 1515(a) dealing with Customs' consideration of an application for further review, and the proposal to require Customs to provide no less than a 30 day comment period for regulatory changes, would benefit all our members.

Three pieces of legislation which the Subcommittee is considering are of particular interest to our members. The first bill would amend section 505(c) of the Tariff Act of 1930 (19 U.S.C. 1505(c)) to clarify that Customs must refund interest payable on refunds of duty arising from NAFTA claims under section 520(d) (19 U.S.C. 1520(d)) for the period beginning on the date of payment to the Government and ending on the date of liquidation. Under current law, Customs is required to refund interest only for the period beginning on the date of filing the claim and ending on the date of liquidation.

Section 505(c) as amended by section 642 of Customs Modernization Act (enacted as Title VI of the North American Free Trade Agreement (NAFTA) Implementation Act), sets forth the rules for calculating interest on underpayments and overpayment of duties, fees and taxes arising out of the importation of merchandise. Prior to enactment of Public Law 104–295 last year, the law provided that interest on the deposited duties, fees and taxes accrued from the date of deposit to the date of liquidation or reliquidation of the entries in question.

Section 2 of the Miscellaneous Trade and Technical Corrections Act of 1996, Public Law 104–295, amended section 505(c) to provide an exception with respect to the payment of interest for a single class of overpayments; monies paid on goods that are later determined to be eligible for NAFTA preferential tariffs. For these overpayments interest runs from the date on which the claim for the preferential tariff was filed to the date of liquidation or reliquidation.

The proposed legislation would reverse the change that resulted from the amendment made by Public Law 104–295. The amendment upset a fair and equitable arrangement in which both importers and the Government were placed on equal footing when it came to paying interest. Moreover, the law does not permit importers to claim the NAFTA tariff preference until the importer has a certificate of origin in its possession. Thus, at the time of entry, the importer is required to post the full duties on the merchandise and the Government has full use of that money until it is refunded. There is nothing that distinguishes a refund of duties arising from a valid claim for a NAFTA preference from the refund of duties arising from any other valid claim. The provision would reinstate the original language.

JIG members often file valid claims for the NAFTA preferential duties after merchandise is imported. Consequently, our members are not being paid interest for the full period that the Government has the use of their money. JIG supports this corrective legislation.

The second bill amends section 520(d) of the Tariff Act of 1930 (19 U.S.C. 1520(d)), relating to goods qualifying under NAFTA rules of origin, to clarify that merchandise processing fees (MPFs) may be refunded along with excess duties if NAFTA-eligibility is proved.

Sections 201 and 202 of the North American Free Trade Agreement (NAFTA) Implementation Act, Public Law 103–182, provide a tariff preference for qualifying goods. Section 204 of the Act exempts Canadian-origin goods, and after June 29, 1999, Mexican-origin goods, from customs user fees (19 U.S.C. 58c). Section 206 of the Act added Section 520(d) of the Tariff Act of 1930 (19 U.S.C. 1520(d)). It authorizes the Customs Service to reliquidate an entry to refund any "excess duties" paid on a good qualifying under the rules of origin for which no claim for preferential tariff treatment was made at the time of importation. Customs takes the position that the reference to "excess duties" precludes it from refunding the customs user fees that were paid at the time of entry, even though the exemption from fees, like the claim for preferential tariff treatment, could not have been made at that time. The legislation makes clear that the Customs Service is authorized to refund any fees imposed under 19 U.S.C. 58c that were paid at the time of entry.

In a ruling issued by the Customs Service, the agency took the position that the term "excess duties" in section 520(d) should be construed to exclude the refund of customs user fees. Customs has interpreted the law in a way that is inconsistent with the clear Congressional mandate that neither duties nor customs user fees are payable on imported Canadian goods that qualify for the NAFTA preference (and, in the future, Mexican goods that so qualify). The amendment would leave no doubt that such fees may be refunded pursuant to a claim filed under section 520(d).

The third bill would amend section 514(a) of the Tariff Act of 1930 (19 U.S.C. 1514(a)) to ensure that if an importer is entitled to a NAFTA tariff preference, there is a method for obtaining a refund of duties paid at the time of entry. Under the bill, the NAFTA tariff preference and exemption from customs user fees under 19 U.S.C. 58c would be listed as one of the specific categories of decisions that an importer may protest.

Under 19 U.S.C 1514, decisions of the Customs Service are final and conclusive on all persons, including the United States, unless a protest is filed. However, Customs has taken the position with respect to post-importation claims for the tariff preference under NAFTA, that the protest procedure under section 514 is not available to importers; that the only available remedy is to file a claim for a refund under section 520(d).

Traditionally, the liquidation or reliquidation of any entry embodies all Customs decisions, including the admissibility of the goods, and the correctness of the valuation, classification, rate and amount of duty, and entitlement to a tariff preference. Even where Customs' decision is based on information provided by the importer, the liquidation or reliquidation may be protested. The filing of a protest prevents the liquidation from becoming final. Customs' position that the protest procedure is not available to importers who do not claim the NAFTA tariff preference at the time of entry is questionable. Existing section 520(d), added to the law by the NAFTA Implementation Act, begins with the statement, "Notwithstanding the fact that a valid protest was not filed, the Customs Service may reliquidate an entry to refund any excess duties . . . ." This statement has been interpreted in other instances to mean that, if a valid protest was filed, Customs could have considered and allowed the importer's claim under the protest procedure. The amendment to section 514 make absolutely clear that section 514 is the primary remedy available to importers for making post-importations NAFTA preference claims, and that section 520(d) is, like section 520(c), an extraordinary remedy that may be used when a liquidation has become final and the protest procedure is not available.

Proposed Miscellaneous Corrections #9

To amend section 520(d) of the Tariff Act of 1930 (19 U.S.C. 1520(d)), relating to goods qualifying under NAFTA rules of origin, to clarify that merchandise processing fees (MPFs) may be refunded along with excess duties if NAFTA-eligibility is proven. Under the NAFTA Implementation Act [P.L. 103–182], MPFs are not imposed on goods originating in NAFTA countries. To claim a NAFTA preference, an importer must provide a valid certificate of origin. In practice, certificates of origin are not always available at the time of importation. Importers often pay duties and the MPF on a good they know is NAFTA-eligible, with the expectation that the MPF will be refunded later as an excess duty when NAFTA-eligibility is proven. Customs has taken the position that MPFs are not refundable excess duties under 19 U.S.C. 1520(d).

see JBC International under Proposed Miscellaneous Corrections #3

see Joint Industry Group under Proposed Miscellaneous Corrections #8

Proposed Miscellaneous Corrections #10

To amend section 514(a) of the Tariff Act of 1930 (19 U.S.C. 1514(a)) to ensure that if an importer is entitled to a NAFTA preference, there is a method for obtaining a refund of the duties paid at the time of entry. It is a violation of law for an importer to claim a NAFTA preference before receiving a valid certificate of origin issued by the exporter. Many importers do not have a certificate of origin at the time goods are entered, and subsequently file post-entry claims when a valid certificate of origin is received. If the entry is liquidated before receiving a certificate of origin, importers generally protest the liquidation under 19 U.S.C. 1514. This action prevents the liquidation from becoming final before the valid NAFTA-eligibility claim is made. Customs position is that protests under 19 U.S.C. 1514 are inapplicable to NAFTA claims, that such claims must be filed under 19 U.S.C. 1520(d) within one year from the date of entry. The provision would clarify that importers may use the protest procedure under 19 U.S.C. 1514 to claim the NAFTA preference.

see American Automobile Manufacturers Association under Proposed Miscellaneous Corrections #7

see JBC International under Proposed Miscellaneous Corrections #3

see Joint Industry Group under Proposed Miscellaneous Corrections #8

see Stewart and Stewart under Proposed Miscellaneous Corrections #1

Proposed Miscellaneous Corrections #11

To amend 19 U.S.C. 2083 and 19 U.S.C. 2071 to eliminate the requirement that Customs provide Congress with three annual reports: (1) the Violation Estimates Report, which contains estimates on the number and extent of violations of trade, customs and illegal drug control laws, and the relative incidence of violations estimated among the various ports of entries; (2) the Enforcement Strategy Report, which outlines a nationally uniform enforcement strategy for dealing with violations 90 days after the Violation Estimates Report; and (3) the Merchandise Damaged Statistics, which provides statistics on the incidence, nature, and extent of damage to merchandise resulting from Customs examinations.

see American Association of Exporters and Importers under Proposed Miscellaneous Corrections #1

see Stewart and Stewart under Proposed Miscellaneous Corrections #1

H.R. 1097

To suspend temporarily the duty on Tinopal CBS–X.

No comments submitted.

H.R. 1214

To suspend temporarily the duty on the chemical P-Toluenesulfonamide.

No comments submitted.

H.R. 1304

To provide for the temporary suspension of duty on certain plastic web sheeting.

AHLSTROM FILTRATION, INC.
MT. HOLLY SPRINGS, PA
August 15, 1997

Chairman Bill Archer
House Ways and Means Committee
1102 Longworth House Office Building
Washington, D.C. 20515

Reference: Public Comment on H.R. 1304

Dear Mr. Archer:

I am writing on behalf of Ahlstrom Filtration, Inc., a paper and nonwoven roll goods manufacturer in Mt. Holly Springs, PA. We import a polyester nonwoven fiber sheet produced by our sister company in France which is further processed and converted at our facility and then sold in the water filtration market.

Legislation recently introduced by Rep. Jim Ramstad (H.R. 1304) would exempt from duty, a similar product imported by the Japan-based Awa Paper Company, our primary competitor. Duty exemption for the Japanese product would be a serious barrier to competition for us, as our product is technically and economically competitive with the product produced by Awa Paper.

The FilmTec Corporation, an Edina, MN-based subsidiary of Dow Chemical, is a major importer of the Awa Paper product. In 1989, FilmTec was successful in having this same Japanese product exempted from duty under H.R. 1428 during the 101st Congress. At that time, FilmTec Corporation argued that there was no comparable quality product available in the U.S. As a result, Awa's product was able to gain a significant marketing advantage over our products, significantly damaging our business. Although FilmTec's claims may have had some merit at that time, production and quality enhancements in our product have enabled it to become a comparable alternative that is competitive in all aspects. Qualitative developments in Ahlstrom's merchandise have invalidated FilmTec's "no comparable product" argument in today's market, and our sales record reflects it.

Major differences between Ahlstrom and FilmTec's products lie in the location of processing. The Awa product used by FilmTec is a polyester nonwoven fiber sheet that has been thermally calendered in Japan to meet the specific demands for certain filtration products. Our product is imported into the U.S. in a "raw" state and thermally calendered in our Pennsylvania plant before it is applicable for the same end use as the Japanese product. After importing the nonwoven material in a "raw" form, Ahlstrom adds significant value to the product by processing it in the U.S. H.R. 1304 does not apply to the "raw" polyester nonwoven fiber sheet, but only to the product that is imported into the U.S. in its finished form.

The product described by the legislative language in H.R. 1304 will not apply to our product due to the "calendered" provision. The uncalendered product we import is currently classified in HTS 5911.40.000 and we pay a duty rate of 12% (we have a classification review pending). The Awa product has recently had a HTS reclassification into 5911.40.000 (the same as ours) from 5603.00.000. Please note that H.R. 1304 refers to products o be modified to include our product in order to provide for equal treatment and competition.

We have sold more than 1,000,000 yards of our product into the U.S. market during the last twelve months. Duty exemption for only the Japanese product would cause serious damage to our business in Mt. Holly Springs, threatening nearly one-third of our total sales and jeopardizing 30 or more jobs.

Our product and the Japanese-processed product should receive equal treatment. Duty exemptions should be granted to both products or neither product. While we would enjoy having an advantageous duty classification, all we ask for is equal treatment that will allow for fair competition based on the attributes and quality of the product. We only seek to ensure a level playing field in our market that does not provide significant artificial benefits to any party.

Sincerely,

KELLY RENNELS
Director of Technology

H.R. 1548

To suspend until January 1, 2001, the duty on Diiodomethyl-p-tolylsulfone.

No comments submitted.

H.R. 1606

To suspend temporarily the duty on carbamic acid (U–9069).

No comments submitted.

H.R. 1607

To suspend temporarily the duty on rimsulfuron.

No comments submitted.

H.R. 1677

To suspend temporarily the duty on certain chemicals.

No comments submitted.

H.R. 1678

To suspend temporarily the duty on Para ethyl phenol (PEP).

No comments submitted.

H.R. 1742

To suspend temporarily the duty on certain viscose rayon yarn.

HOECHST CORPORATION
WASHINGTON, DC 20005
August 15, 1997

Mr. A.L. Singleton
Chief of Staff
Committee on Ways & Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, DC 20515

Dear Mr. Singleton:

I am writing for the official record to express opposition to the following miscellaneous tariff bills currently being reviewed by the Ways & Means Committee.

H.R. 1954
H.R. 1742
H.R. 1888
H.R. 2148

The specific yarns covered under these various bills are like and directly competitive products to items manufactured in the United States by Celanese Acetate, a member of the Hoechst group. As a result, the temporary elimination of these tariffs would hamper the ability of domestic manufacturers to compete in our own home market. In addition, tariffs on these same items remain prohibitive in several lucrative foreign markets such as the Peoples Republic of China. It is our strong belief that the U.S should not lower or eliminate tariff on These products until commensurate duty reductions are obtained from major trading partners.

Thank you for your consideration of our views in regard to these bills, and if we can provide you with any additional information please do not hesitate to contact me.

Sincerely,

W. ANTHONY SHAW
Government Relations Department

TS/sb

Comments of ICF Industries, Inc. of New York, New York

Chairman Archer and Members of the Committee:

ICF Industries, Inc. ("ICF") very much appreciates the opportunity to comment in detail on proposed duty suspension legislation that is vital to the interests of several important U.S. industries and many U.S. companies.

ICF is a U.S. merchant distributor of filament yarn products headquartered at 111 West 40th Street, New York, New York 10018. We very strongly support the enactment of a three-year suspension of the duties on certain viscose rayon yarn, also known as "rayon filament yarn," as embodied in H.R. 1742. If, in the judgment of the Committee on Ways and Means, a full suspension of the duties is not feasible, ICF would support, as an alternative, enactment of the following three bills as incremental steps toward the ultimate suspension of these tariffs: H.R. 1888, H.R. 1954, and H.R. 2148.

With the exception of a very small and specialized category of yarn manufactured for "carbonizing," rayon filament yarn is no longer manufactured in the United States. As set forth below, ICF endorses an exception to the proposed duty suspension for carbonizable yarn.

THE PRODUCT

Rayon filament yarn is used by the apparel, home furnishings and automotive industries for both textile and industrial purposes.

Rayon filament yarn is a synthetic fiber extruded by what is known as the viscose process in which cellulose is liquefied via dilution in a caustic alkali solution, heated with carbon disulfide and then forced through tiny spinneret holes into a bath where it coagulates to form extremely fine jetsnt yarn. The product has a wide variety of end uses ranging from delicate, silk-like fabrics made for apparel out of fine denier textile yarn; to lining, velvet and other more durable textile fabrics for apparel; to embroidery, monogramming and other decorative stitching threads; to drapery, upholstery and other fabrics for home furnishings; to industrial strength hose for cars and trucks made of heavy denier yarn.

The Proposed Legislation

ICF wishes to express its deep gratitude to those Members of the House who have expressed a keen interest in seeking a constructive solution to the problems posed by the existing general duty on rayon filament yarn, and who have responded to the concerns shared by the apparel, home furnishings and automotive industries by introducing or cosponsoring the legislation described below. ICF appreciates the leadership and continuing support of these Members and the hard work of their respective staffs.

H.R. 1742, introduced on May 22, 1997 by Representative Steven Rothman (D–NJ), applies to three categories of rayon filament yarn for textile end uses as described in subheadings 5403.31.00 and 5403.32.00 of The Harmonized Tariff Schedule ("HTS") and two categories of rayon filament yarn for industrial end uses as described in subheading 5403.10.30 of the HTS. Representative Rothman's bill would suspend the duty for all three subheadings for three years, until December 31, 2000. More specifically, the categories of yarn that would be affected are as follows:

• HTS #5403.10.30 (Industrial Yarn): High tenacity yarn of viscose rayon: single yarn monofilament; multifilament, untwisted or with twist of less than 5 turns per meter (#5403.10.30.20) multifilament, with twist of 5 turns or more per meter (#5403.10.30.40)

The general duty rate applicable to these yarns is ten percent. The current duty rate for imports from Mexico is six percent. Imports from Canada and Israel are exempt from duty.

• HTS #5403.31.00 (Textile Yarn): Other yarn; single: of viscose rayon, untwisted or with a twist not exceeding 120 turns per meter monofilament; multifilament, untwisted or ss than 5 turns per meter (#5403.31.00.20) multifilament, with twist of 5 turns or more per meter (#5403.31.00.40)

The general duty rate applicable to these yarns is ten percent. The current duty rate for imports from Mexico is six percent. The duty rate for imports from Canada is one percent. Imports from Israel are exempt from duty.

• HTS #5403.32.00 (Textile Yarn): Other yarn, single: of viscose rayon, with a twist exceeding 120 turns per meter

The general duty rate applicable to this yarn category is ten percent. The current duty rate for imports from Mexico is six percent. The duty rate for imports from Canada is one percent. Imports from Israel are exempt from duty.

ICF wholeheartedly supports H.R. 1742 and urges the House Ways and Means Committee to approve the bill. Since there is no longer any domestic producer of the rayon filament yarn products for which tariff suspension is being sought, there is no longer any economic justification for the duties. In addition, duty suspension will create very real benefits to U.S. industry. In the alternative, ICF would support enactment of H.R. 1888, H.R. 1954 and H.R. 2148 as incremental steps toward the ultimate suspension of these tariffs.

H.R. 1888, introduced on June 12, 1997 by Representative Peter King (R–NY), would suspend the duty for three years, through December 31, 2000, for the category of textile yarn described at HTS #5403.32.00 (see above).

H.R. 1954, introduced on June 18, 1997 by Representative William L. Jenkins (R–TN), would suspend the duty for two years, through December 31, 1999, for industrial yarn as described at HTS# 5403.10.30 (see above).

H.R. 2148, introduced on July 10, 1997 by Representatives Floyd Spence (R–SC) and Norman Sisisky (D–VA), would reduce the existing general duty from ten percent to 7.5 percent for one year, until December 31, 1998, on the category of textile yarn described at HTS# 5403.31.00 (see above).on also includes an exception from the duty reduction for rayon filament yarn that is manufactured for the purpose of carbonizing.

Absence of General Domestic Production

According to data compiled by the Textile Organon, a respected industry publication, 658 million pounds of rayon filament yarn were produced in the United States during the year 1953. Thereafter, a combination of environmental and economic constraints forced producers in this country to reduce capacity or to shut down altogether. By 1965 U.S. production had been reduced to 434 million pounds. By 1975 U.S. production had dropped to 65 million pounds. By 1984, production in the United States was down to 41 million pounds.

By the late 1980's there was only one remaining producer of rayon filament yarn in the United States. This company was the North American Rayon Corporation ("North American") of Elizabethton, Tennessee. In 1996 North American sold only 9.5 million pounds of rayon filament yarn and was being crushed by the massive financial burden of attempted compliance with the stringent federal and state environmental regulations applicable to the environmentally "dirty" rayon filament yarn extrusion process. In late 1996, North American decided to follow the lead of all other U.S. producers and ceased the greater part of its rayon filament yarn manufacturing activities.

North American's termination of all but its carbonizable rayon filament yarn production means that there is no longer any producer in the United States of the type of rayon filament yarn distributed by ICF to the textile trade, nor of the industrial yarn used by the automotive industry. Further, the high costs which would be associated with the construction in the United States of a new rayon filament yarn manufacturing facility that could meet this country's stringent environmental standards, coupled with the historically low margins resulting from intense inter-fiber competition, assure that domestic users of rayon filament yarn will not be able to obtain these yarns from U.S. producers during coming years.

Exception Proposed for Carbonizable Yarn

North American Rayon Corporation's successor company, North American Corporation, now produces only a small category of rayon filament yarn that is manufactured for a specialized process known as carbonizing. ICF endorses an exception to the proposed duty reduction that would allow any imported carbonizable yarn to remain subject to the existing ten percent duty. As stated above, this exception is included in H.R. 2148. With respect to H.R. 1742 or any other bill which includes a suspension or reduction of the tariff for products that fall within HTS #5403.31.00, we recommend that the Committee include the following specific exception: "except for medium tenacity rayon filament yarn (2.8 to 4.1 grams per denier) manufactured solely for the purpose of carbonizing."

The U.S. Market for Rayon Filament Yarn

U.S. consumption of rayon filament yarn for textile and industrial end uses during the year 1995 amounted to approximately 29,380,000 pounds. North American supplied approximately 12,900,000 of these pounds, representing approximately 44% of combined U.S. demand. In dollars, North American's sales accounted for approximately $40 million, or 44 percent, of the combined $91.5 million 1995 United States market. U.S. consumption of rayon filament yarn for textile and industrial end uses during the year 1996 amounted to approximately 22,500,000 pounds. North American supplied approximately 9,500,000 of these pounds, representing approximately 42 percent of combined U.S. demand. In dollars, North American's sales accounted for approximately $32 million, or 44.5 percent, of the combined $72 million 1996 United States market.

The Consumers

The consumers of rayon filament yarn for textile end uses fall into three general categories: weavers, knitters and processors. ICF customers who consume textile rayon filament yarn include the following companies:

Weavers:

Bally Ribbon Mills, Inc., Bloomsburg Mills, Inc., Carthage Fabrics Corp., CMI Industries Inc., Doran Textiles, Inc., Fabric Resources Ltd., Hoffman Mills Inc., Frank Ix & Sons, Inc., JPS Converter & Industrial Corp., Keystone Weaving Mills, Inc., J.B. Martin Company, Inc., McGinley Mills, Inc., Meder Textile Company, Inc., C.M. Offray & Sons, Inc., Lawrence Schiff Silk Mills, Schneider Mills, Inc., Stonecutter Mills Corporation, Trimtex Company Inc., Wear Best Sil-Tex Mills, A. Wimpfheimer & Brothers, Inc.

Knitters:

Allied Fabrics Inc., Andrex Industries, H.H. Fessler Knitting co., Inc., Hope Industries, Ge-Ray Fabrics, Guilford Mills, I.G. Textile Mills Inc., Johnson & Johnson (Ethicon Co. Inc. Division), Jomac Inc., Kentex Industries Inc., Kronfli Spundale Mills Inc., Liberty Fabrics, Lida Stretch Fabrics, Inc., Metritek Corporation , Mohawk Fabric Co., Inc., Native Textiles, Richland Mills, Shara-Tex Inc., Universal Connection Corp.

Processors:

Barbour Threads, Clifton Yarn Mills, Danville Chenille Co., Inc., Decorative Aides Inc., Excel Elastic Corp., Huntingdon Yarn Mills, Ideal Braid Corporation, Kent Manufacturing Co., Lending Textile Co., Inc., London Yarn Co., Moki Yarns, Div. of Lacy Lace Co., Novita Yarns (Division of St. John Knits), Robison-Anton Textile Co., Twistex Yarns Inc., William Wright Co.

The consumers of high tenacity, industrial strength rayon filament yarn are engaged principally in the manufacture of radiator hoses, hydraulic hoses, chemical transfer hoses and other durable hose products for the automotive industry. Significant users of industrial rayon filament yarn in the manufacture of automotive hoses include the following companies:

Aeroquip Corporation, Beaver Manufacturing Co., The Bibb Company, Boston Industrial Products, Cooper Tire & Rubber Company, Dayco Products, Inc, Dunlop Tire Corporation, The Gates Rubber Company, Goodyear Tire & Rubber Company, Michelin Tire Corporation, Nephi Rubber Products Corp.

The State of the Industry

The U.S. weaving, knitting and yarn processing industries have been hit hard by intense competition from overseas suppliers of fabrics and stitching threads containing rayon filament yarn, and by the importation of low priced apparel and home furnishings. Selling prices are down. Employment is down. And looms, knitting machines and twisting and other processing machines are standing idle.

For instance, according to industry sources, domestic weavers once controlled approximately 95 percent of the U.S. market for woven goods containing filament rayon. Today, domestic weavers control only approximately 25–30 percent of this domestic market, and they do so only by selling at very low prices. Industry sources also indicate that the converters who arrange for the dying and finishing of textile greige goods are now prone to look to U.S. weavers only for initial orders requiring innovation or for quick response, and that volume business is being given to overseas suppliers in China, Korea, India, Indonesia, Pakistan and Turkey whose quality generally does not match that of the U.S. weavers but whose manufacturing costs and prices are considerably lower. This has reduced U.S. employment at some weavers.

Similarly, the recent influx of low priced velvet fabrics from Korea and elsewhere has cic weavers' share of the market for rayon velvet fabrics to decline over the last few years from approximately 70 percent of the market to less than 50 percent. Employment has declined and this decline has been attributable in large part to the high price of rayon filament yarn.

Similarly, U.S. manufacturers of embroidery and other decorative yarns and threads have maintained market share in the face of intense Korean and other foreign competition only by slashing prices. Despite dramatic investment in new equipment to ensure that quality and productivity remain at the highest levels, average selling prices per unit today are significantly lower than they were some ten years ago.

Industry Supports the Proposed Duty Suspension

There is considerable support for the proposed duty suspension among the users of textile and industrial rayon yarn, as evidenced by the public comment received by the House Ways and Means Committee since the issuance of Advisory No. TR–10 of June 30, 1997. Industry associations as well as individual companies have advised the Committee of their support for H.R. 1742, H.R. 1888, H.R. 1954 and H.R. 2148. Attached as Table I is a list of supporters of the proposed duty suspensions for rayon filament yarn based on letters sent to the Committee as of this date.

There Is No Opposition to the Legislation

Public comment addressed to the Committee as of this date which we have reviewed shows no opposition to the proposed duty suspension. Given that there is no longer any domestic producer of rayon filament yarn (other than carbonizable yarn as described above), this is not an unexpected development. Indeed, earlier this year the Commerce Department completed a changed circumstances antidumping duty administrative review and subsequently revoked the antidumping order on high-tenacity rayon filament yarn from Germany. According to the Federal Register notice dated May 30, 1997 (55 F.R. 29329), the Commerce Department's determination was based on the fact that North American, which had been the petitioner in the original underlying investigation, "states that it has no further interest in the order." The Commerce Department finding further stated: "We are now revoking the order based on the fact that the order is no longer of interest to domestic interested parties."

There were no submissions to the Commerce Department, and thus no opposition from the public, in response to the notice of preliminary determination to revoke the antidumping order, which had included an opportunity for public comment. We believe that the absence of any opposition to the revocation of the antidumping order and the absence of any public comment to this Committee in opposition to the proposed duty suspension provide a clear indication that continuation of the existing duty serves no useful commercial or public policy purpose.

CONCLUSION

While not a complete panacea, the suspension of the ten percent duty on rayon filament yarns would lower the cost of these yarns to domestic producers no longer able to buy a U.S.-made, duty-free rayon filament yarn product. Such a duty suspension would thus go a long way toward enhancing the ability of U.S. companies manufacturing fabrics for apparel and home furnishings and embroidery and similar decorative yarns—and of their customers in the apparel and home furies—to compete more effectively in their U.S. home market against imported products and in the world market generally.

Although the U.S. automotive industry is not adversely affected by foreign competition to the same extent as the textile and home furnishings industries, the U.S. producers of industrial strength hose for cars and trucks tend to be large companies with large work forces and multiple locations. These companies are likewise no longer able to buy U.S. made, duty free rayon filament yarn and thus also favor duty suspension now that the last remaining U.S. manufacturer of rayon filament yarn has ceased production of all but its carbonizable rayon filament yarn products.

ICF urges the Committee to approve the proposed duty suspension for rayon filament yarn and to bring the matter to a vote in the full House of Representatives as soon as possible.

Table 1

SUPPORTER	LOCATION(S)	DATE OF LETTER
Akzo Nobel Industrial Fibers, Inc.	Scottsboro, AL	8/14/97
Allied Fabrics, Inc.	Belmont, NC	7/30/97
Bally Ribbon Mills.	Bally, PA	7/31/97
Beaver Manufacturing	Mansfield, GA	8/4/97
The Bibb Company	Atlanta, GA Porterdale, GA	8/4/97
Bloomsburg Mills, Inc	New York, NY Bloomsburg, PA Monroe, NC	7/24/97
Carthage Fabrics Corp.	Carthage, NC New York, NY	8/1/97
Clifton Yarn Mills	Clifton Heights, PA	7/24/97
CMI Industries Inc.	Greensboro, NC Clarkesville, GA New York, NY Columbia, SC Clinton, SC Elkin, NC Geneva, AL Stuart, VA	8/5/97
Danville Chenille Co., Inc.	So. Danville, NH	8/8/97
Ethicon (Div. of Johnson & Johnson)	Somerville, NJ Curooo, PR Cagous, PR	8/4/97
Excel Elastic Corporation	Northvale, NJ Pawtucket, RI	8/5/97
Fabric Resources Ltd.	Great Neck, NY Rock Hill, SC Mullins, SC	7/31/97

Table 1—Continued

SUPPORTER	LOCATION(S)	DATE OF LETTER
Frank Ix & Sons, Inc.	New York, NY	7/30/97
	Lexington, NC	
	Charlottesville, VA	
Ge-Ray Fabrics	Morganville, NJ	8/6/97
	Asheville, NC	
	Augusta, GA	
	New York, NY	
Hoffman Mills Inc.	New York, NY	7/25/97
	Shippensburg, PA	
Hope Industries	Nashua, NH	8/6/97
Huntingdon Yarn Mills, Inc.	Philadelphia, PA	7/30/97
I.G.Textile Mills, Inc.	New York, NY	8/1/97
Jomac Inc.	Warrington, PA	8/8/97
JPS Converter & Industrial Corp.	New York, NY	8/5/97
	Greenville, SC	
	South Boston, VA	
	Rocky Mount, VA	
	Lincolnton, NC	
	Kingsport, TN	
	Slater, SC	
	Stanley, NC	
	Laurens, SC	
Kent Manufacturing Co.	Pickens, SC	8/6/97
Kentex Industries, Inc.	Hudson, NH	7/31/97
Keystone Weaving Mills, Inc.	Lebanon, PA	8/5/97
	York, PA	
Lawrence Schiff Silk Mills, Inc.	Quakertown, PA	7/24/97
	Bethlehem, PA	
	Allentown, PA	
	Carlisle, PA	
	Newville, PA	
Lending Textile Co., Inc.	New York, NY	7/29/97
	Montgomery, PA	
Lida Stretch Fabrics, Inc.	New York, NY	8/14/97
	Charlotte, NC	
J.B. Martin Company, Inc.	New York, NY	7/29/97
	Leesville, SC	
McGinley Mills, Inc.	Easton, PA	7/23/97
	Phillipsburg, NJ	
Meder Textile Co., Inc.	Port Washington, NY	7/17/97
	Kings Mountain, NC	
Metritek Corp.	Boca Raton, FL	8/6/97
Mohawk Fabric Co., Inc.	Amsterdam, NY	7/17/97
Native Textiles	New York, NY	7/28/97
	Glens Falls, NY	
North American Corporation	Elizabethton, TN	8/12/97
C.M. Offray & Son, Inc.	Chester, NJ	7/24/97
	Hagerstown, MD	
	Anniston, AL	
	Leesville, SC	
	Watsontown, PA	
	Danville, VA	
Richland Mills	Hialeah, FL	7/31/97
Robison-Anton Textile Company	Fairview, NJ	7/23/97
	Clark Summit, PA	
Schneider Mills, Inc.	New York, NY	7/17/97
	Taylorsville, NC	
	Forest City, NC	
Shara-Tex Inc.	Vernon, CA	7/30/97
St. John Knits	Irvine, CA	8/6/97
Stonecutter Mills Corporation	Spindale, NC	8/4/97
	New York, NY	
Trimtex Company, Inc.	Williamsport, PA	8/12/97

Table 1—Continued

SUPPORTER	LOCATION(S)	DATE OF LETTER
Twistex Yarns	Oceanside, CA	7/22/97
Universal Connection	Los Angeles, CA	7/31/97
Wearbest Sil-Tex Mills Ltd.	Garfield, NJ	8/7/97
A. Wimpfheimer & Bro., Inc.	New York, NY Stonington, CT Orange, VA Blackstone, VA	7/11/97
Wm. E. Wright L.P.	West Warren, MA	8/11/97
ASSOCIATIONS:		
American Textile Mfgrs. Institute	Washington, D.C.	8/13/97
Nat'l Knitwear & Sportwear Ass'n.	New York, NY	8/12/97
Textile Distributors Association	New York, NY	7/23/97

NATIONAL KNITWEAR & SPORTSWEAR ASSOCIATION
NEW YORK CITY, NY 10016
August 12, 1997

Mr. Phil Crane, Chairman
Trade Subcommittee
Committee on Ways and Means
Room 1150 Longworth Building
U.S. House of Representatives
Washington, DC

Dear Mr. Chairman:

On June 30, 1997 the Committee invited comment on various miscellaneous tariff bills including several to suspend the duty on artificial filament yarn of viscose rayon (H.R. 1742) and similar legislation. (HR 1954, H.R. 1888 and, on a more extensive bill, H.R. 2148 which would reduce the duty for one year on a broader variety of viscose yarns.)

The National Knitwear & Sportswear Association represents a variety of garment manufacturing companies generally specializing in the production of knitted garments, including sweaters. Our members are located in many states, including New York, New Jersey, California, Minnesota, Ohio, the Carolinas, Massachusetts, Pennsylvania. We also count among our members a number of fabric knitting companies manufacturing circular knit fabrics principally for apparel end uses.

While the yarns covered under the subject bills are a relatively minor element in the apparel scene, and many are for industrial uses unrelated to apparel and therefore outside of our areas of interest and/or expertise, viscose is a fashion element in many garments and is therefore of interest to a number of our members. Apparel containing these yarns is imported into the United States in competition with our members, and they need to be able to obtain these materials at a competitive price for use in the manufacture of garments in the United States. Additionally, we believe that recent action by the Committee involving yarns of all fibers warrants a more complete consideration of the existing yarn tariff and quota situation, and that this reexamination should apply to all yarns rather than solely those referred to in the bills noted above.

During the current session, the Committee approved legislation granting what was referred to as "parity" to the Caribbean basin countries (Sec. 981 of the Tax bill). That legislation granted duty and quota free status to a variety of Caribbean made apparel products, provided only that they were made of United States origin yarn (Sec. 984). (NKSA opposed that legislation for a variety of reasons not recounted again here.) We understand that legislation along those lines will be proposed again shortly, perhaps in conjunction with, or as part of, the Fast Track legislation.

In light of the Committee's previous endorsement of CBI "parity" legislation, we urge that any new legislation along those lines include the elimination of duties and quotas on yarns, regardless of origin, for use in the manufacture of apparel in the United States. If the Committee continues to believe that providing immediate and special tariff and quota benefits for the Caribbean industry is good policy, hopefully it will be interested in contributing a small offset to that policy so that domestic garment manufacturers and fabric manufacturers, with employees far outnumbering those in the apparel-yarn industry, might be better able to cope with the garment import flow that a CBI bill would generate.

For the domestic knitted garment manufacturing industry to have a reasonable chance for survival in the face of a totally open apparel door from the Caribbean, duty and quota free access to yarns from world markets will be essential. The American industry cannot accept a circumstance in which the most import sensitive apparel is permitted what amounts to a seven year advance on the scheduled elimination of the international quota system, while yarn essential to the manufacturing process remains subject to duties and quotas. This creates the classic tariff anomaly in which the raw materials are taxed and subject to quotas, thereby burdening domestic producers, while the higher value added products they make are encouraged to be imported. A reverse situation should apply.

We recognize that the elimination of yarn duties would add to the revenue cost of the pending legislation, but believe that the benefits to domestic manufacturers would enable some to survive who might not otherwise, thereby saving on unemployment insurance and welfare claims. The Committee should examine these issues fully.

For these reasons we support the instant legislation calling for elimination or suspension of duties on viscose yarns, while urging the Committee to consider the entire yarn import situation more fully at its earliest opportunity.

Thank you for including this comment in the record of the Committee.

Sincerely yours,

SETH M. BODNER
Executive Director

NORTH AMERICAN CORPORATION
ELIZABETHTON, TENNESSEE 37643
August 12, 1997

Honorable Bill Archer
Chairman
Committee on Ways and Means
1102 Longworth Building
U.S. House of Representatives
Washington, D.C. 20515–6348

ATTENTION: A. L. Singleton, Chief of Staff

RE: H.R. 1742, H.R. 1888, H.R. 1954 and H.R. 2148

Dear Mr. Chairman:

On behalf of North American Fibers (successor to North American Rayon Corporation) ("North American") and its employees, I want to express strong support for the above legislation to suspend or reduce the tariff on both industrial and textile rayon filament yarn. With respect to H.R. 1742 or any bill which includes a suspension or reduction of the tariff for products that fall within HTS #5403.31.00, I request that the Committee include the following exception: "except for medium tenacity rayon filament yarn (2.8 to 4.1 grams per denier) manufactured solely for the purpose of carbonizing."

For many years until the end of 1996, North American was the sole U.S. manufacturer of rayon filament yarn. Because of the continuous increase in low cost imported fabrics and garments, North American ceased production in early 1997 of the rayon filament yarn cited in the above legislation, except for carbonizable yarn as described above. We believe it highly unlikely that any U.S. company would initiate a venture in the future for the general manufacture of rayon filament yarn because of the economic and environmental factors that limit its profitability.

In addition to the manufacture of carbonizable yarn, North American continues to process imported high tenacity industrial yarn for customers who in turn manufacture radiator hoses, hydraulic hoses, chemical transfer hoses and other durable hose products.

North American and our customers are under significant pressure from overseas competitors that can obtain this yarn at much lower duties, are not as carefully regulated with respect to labor and environmental conditions and generally have lower production costs. These foreign manufacturers can then export products made from such yarn to the United States at prices that create an unfair advantage for imports. Suspending or reducing the duty on both industrial and textile rayon filament yarn will not fully resolve this problem, but it will help significantly in keeping U.S. products competitive with imports, thereby preserving U.S. jobs and industrial capacity.

North American believes that the public record of comment on this legislation will demonstrate that there is no opposition to its enactment. For instance, in response to our request in another matter involving high tenacity rayon filament yarn, the Commerce Department recently completed a changed circumstances antidumping duty administrative review and revoked the antidumping order on high-tenacity rayon filament yarn from Germany in a Federal Register notice dated May 30, 1997. The Commerce Department's determination was based on the fact that North American, which had been the petitioner in the original underlying investigation, "has expressed no interest in the continuation of the antidumping duty order." In addition, there were no submissions to the Commerce Department, and thus no opposition from the public, in response tpreliminary determination to revoke the antidumping order.

We at North American hope the Committee will approve H.R. 1742. While this bill involves relatively substantial revenue losses for a tariff suspension, there is no longer any economic justification for the tariff, and its suspension will create very real benefits to U.S. industry. In the alternative, we support H.R. 1888, H.R. 1954 and H.R. 2148 as incremental steps toward ultimate suspension of these tariffs.

Sincerely,

CHARLES K. GREEN
President and Chief Executive Officer

H.R. 1793

To suspend temporarily the duty on Pyrithiobac Sodium.

No comments submitted.

H.R. 1852

To reduce the duty on a polymer of alkanediols, monocyclic dicarboxylic acid dimethyl ester, monocyclic monosulfonated dicarboxylic acid dimethyl ester monosodium salt and hydroxy alkoxyalkanesulfonic acid sodium salt.

HOECHST CORPORATION
WASHINGTON, DC 20005
August 15, 1997

Mr. A. L. Singleton
Chief of Staff
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

SUBJECT: Support of H.R. 1852

Dear Mr. Singleton:

On behalf of Hoechst Corporation, I am pleased to submit these comments in response to the Subcommittee on Trade's Advisory TR–10, dated June 30, 1997. The Hoechst Corporation supports H.R. 1852, legislation introduced by Rep. Sue Myrick (R–NC), which would reduce to 3.5 percent ad valorem the tariff on a polymer of alkanediols, monocyclic dicarboxylic acid dimethyl ester, monocyclic monosulfonated dicarboxylic acid dimethyl ester monosodium salt and hydroxy alkoxyalkanesulfonic.

The product is imported from Germany and is used in a variety of home care products to improve their effectiveness. Its enactment would enhance the competitiveness of the Hoechst Corporation in the US., as well as benefit the ultimate consumers by the production of a more cost effective product. There are no manufacturers of this product in the United States or other countries, and as a result no U.S. manufacturers or workers would be negatively impacted by its enactment.

This product is currently imported under Harmonized Tariff Schedule of the U.S. subheading 3907.90.50 at a specific duty rate of 2.2 cents per kilogram plus 8.2 percent ad valorem. The estimated adjusted loss of revenue from enactment of this bill would be approximately $440,000 per year, based on import figures for 1996.

We are currently working with the International Trade Commission and the U.S. Customs Service to refine the chemical name description for the product and will work with the Trade Subcommittee in any subsequent markup to ensure that this legislation can be effectively administered by the Customs Service.

We would be happy to work with the Subcommittee to ensure enactment of this legislation and appreciate this opportunity to comment and the Subcommittee's continued commitment to miscellaneous tariff legislation.

Best Regards,

W. ANTHONY SHAW
Government Relations

H.R. 1875

To amend the Harmonized Tariff Schedule of the United States to allow entry of peanut butter and paste manufactured from Mexican peanuts in foreign trade zones, without being subject to a tariff-rate quota.

CHOCOLATE MANUFACTURERS ASSOCIATION
NATIONAL CONFECTIONERS ASSOCIATION
MCLEAN, VIRGINIA 22102–4203
August 8, 1997

Mr. A. L. Singleton
Chief of Staff
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Singleton:

The National Confectioners Association (NCA) and the Chocolate Manufacturers Association (CMA) would like to submit these comments regarding H.R. 1875 for your committee record.

Together our associations represent 175 companies that manufacture the vast majority of chocolate and non-chocolate products in the United States and another 250 companies that supply those manufacturers. At times the confectionery industry is the second largest user of peanuts in the United States, so we are very interested in issues that affect this valuable commodity.

While the passage of H.R. 1875 would not have a major impact on the trade activity of peanuts between Mexico and the United States, we do support approval of the measure.

As you know, our federal government restricts the supply of peanuts in this country to guarantee an artificially high price for those who grow the commodity. These steps taken by our own government have not really served to help our domestic peanut growers, but instead have caused the demand for this important product to decline.

In addition, the members of our associations are forced to compete with confectionery products from abroad whose manufacturers are able to purchase peanuts at the much less expensive world market price. Such economic trends force our members to consider locating jobs outside the U.S.

Until more significant steps are taken to change these restrictive trade policies of the American government and to bring about a more market oriented system of selling peanuts in the United States, the peanut industry will continue to decline. But in the meantime, the measures called for in H.R. 1875 are positive steps that would bring about increased use of peanuts and could save American jobs by allowing the processing of some Mexican peanuts in our country.

Please let us know if we can provide your committee with any further information on this issue.

Sincerely,

LAWRENCE T. GRAHAM
President

LTG/sgl

Comments of James W. Dorsett, President, Golden Peanut Company, Alpharetta, Georgia

Mr. Chairman, I am pleased to submit to the Subcommittee on Trade, Committee on Ways and Means, this statement in support of H.R. 1875, which would amend the Harmonized Tariff Schedule of the United States to allow the manufacturing of peanut butter and paste in U.S. foreign-trade zones, subject to certain conditions. Golden Peanut Company commends Chairman Crane for introducing this important legislation and appreciates the opportunity to provide its views.

Golden Peanut Company is the largest sheller of peanuts in the United States,U.S. operating shelling plants in all three of the major U.S. peanut producing areas of the U.S., i.e., the Southwest, Southeast, and the Virginia-Carolina areas. We also operate further processing plants manufacturing further processed products, including peanut butter, which includes the manufacturing of peanut butter in Georgia and Texas. Because Since all of our physical assets are in the United States, U.S. we are very concerned about the non-competitive position in which certain provisions of that the North American Free Trade Agreement placeplaces on U.S. peanut shellers and growers.

Golden Peanut Company strongly supports H.R. 1875 as a measure urgently needed to address a defect in current tariff law that places U.S. producers of peanut butter and paste, such as Golden Peanut Company, at a competitive disadvantage relative to competitors in Mexico. Current law grants quota-free tariff access to the U.S. market to Mexican producers of NAFTA-qualifying peanut butter and paste but restricts, under a tariff-rate quota, the U.S. industry's access to Mexican-grown peanuts that would be used to manufacture peanut butter and paste in the United States. If not corrected, this disadvantageous tariff relationship will result in competitive harm to U.S. peanut butter and paste producers. It also will encourage the discontinuation of U.S. peanut butter and paste production in favor of new production facilities in Mexico.

H.R. 1875 would allow U.S. peanut butter and paste plants to use foreign-trade zone procedures for the limited purpose of processing Mexican-origin peanuts into peanut butter and paste. Because the finished product would be made with U.S. labor, the change in tariff law made by the bill would preserve economic activity and jobs in the United States. Because imports under the new provision could not be withdrawn from foreign-trade zones to enter the U.S. market in the form of peanuts (or in any form other than as peanut butter or paste), the bill would have no adverse effect on the peanut program administered by the U.S. Department of Agriculture.

Because Mexico is the only country in the world that has quota-free access to the U.S. peanut butter and paste market, current U.S. tariff treatment of peanut butter and paste products will encourage the growth of an export-oriented peanut butter and paste industry in Mexico. Given U.S. international trade commitments, we must expect this result whether or not H.R. 1875 is enacted. However, H.R. 1875, which is fully consistent with our country's international trade obligations, will prevent unnecessary economic harm to the U.S. peanut butter and paste industry. Absent the remedy to be effected by the bill, U.S. tariff law will continue to treat Mexican peanut butter and paste producers more favorably than it treats Golden Peanut and the other peanut butter and paste producers in the United States.

For all these reasons, Golden Peanut Company urges the enactment of H.R. 1875 as soon as possible.

H.R. 1876

To clarify that certain large components of certain scientific instruments and apparatus shall be provided the same tariff treatment as those scientific instruments and apparatus.

No comments submitted.

H.R. 1879

To suspend temporarily the duty of Triflusulfuron Methyl.

No comments submitted.

H.R. 1882

To suspend temporarily the duty on certain parts for in-line skates.

No comments submitted.

H.R. 1886

To suspend the duties on Pantera.

UNIROYAL CHEMICAL COMPANY, INC.
MIDDLEBURY, CT
August 15, 1997

Mr. A.L. Singleton
Chief of Staff
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office
Washington, D.C. 20515

Re: A bill to temporarily suspend the duty on Pantera Technical (+/−tetrahydro-furfuryl®-2-[4-(6-chloroquinoxaline-2-yloxy) phenoxyl propanoate)—H.R. 1886

Dear Mr. Singleton:

On behalf of Uniroyal Chemical Company, Inc., we are writing to submit comments regarding H.R. 1886, a bill to temporarily suspend the duty on Pantera Technical (+/−tetrahydro-furfuryl®-2-[4-(6-chloroquinoxaline-2-yloxy) phenoxyl propanoate). Uniroyal strongly endorses this House Bill as a means to provide to the US agriculture industry at more competitive prices a highly effective graminicide for the control of many annual and perennial grass weeds.

There are substantial economic benefits to farmers and growers producing a wide range of important food and ornamental crops in the US from the use of Pantera Technical. This product is used to control weeds in growing cotton, dry bean, flax, forests, tree nurseries, fruit trees, grapevine, lentils, lupins, melons, mustard, onion, oilseed rape, peas, peanuts, potatoes, red beets, soybeans, sugar beets and sunflowers.

Pantera Technical is a post emergence graminicide, which eliminates pests in a wide range of annual and perennial grass weeds, as well as in many broad leafed crops. It does not require oil based adjuvant to be effective and is more environmentally friendly than other graminicides and herbicides. Compared to other similar products, it is friendlier because it is effective in controlling regrowth of the weeds. As a result, the need for multiple applications during a growing season is significantly reduced.

In conclusion, we support this legislation as beneficial to the agriculture community. There should be no opposition from US chemical manufacturers since this is a proprietary chemical not produced in the US. The savings from the elimination of the duty can be passed along, in whole or in part, to customers worldwide who purchase this product.

We thank you for the opportunity to submit these comments. We are prepared to respond to any questions Committee members or staff may have about this product.

Sincerely,

JAMES B. CLAWSON
JBC International

H.R. 1887

To suspend the duties on Triacetonamine.

UNIROYAL CHEMICAL COMPANY, INC.
MIDDLEBURY, CT
August 15, 1997

Mr. A.L. Singleton
Chief of Staff
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office
Washington, D.C. 20515

Re: A bill to temporarily suspend the duty on triacetonamine (4-piperzone 2,2,6,6-tetramethyl)—H.R. 1887

Dear Mr. Singleton:

On behalf of Uniroyal Chemical Company, Inc., we are writing to submit comments regarding H.R. 1887, a bill to temporarily suspend the duty on triacetonamine (4-piperzone 2,2,6,6-tetramethyl). Uniroyal strongly endorses this House Bill as a means to improve the competitive position of Uniroyal in the worldwide sales of its new proprietary product NAUGARD SFR.

Triacetonamine is a proprietary nitroxyl free radical mixture with ethylbenzene. It is used as a raw material in the manufacture of Uniroyal Chemical Company's new line of NAUGARD SFR (stable free radical) polymerization inhibitor chemicals. These chemicals inhibit the development of polymers during the curing of rubbers and plastics. Uniroyal's NAUGUARD SFR product line is unique in that it is characterized by very low usage levels (approximately 20% as much as other inhibitor chemicals), does not require air injection, and has high storage stability. These products have low toxicity and environmental impact; they are available in solution form and have demonstrated an excellent cost/performance ratio.

The use of triacetonamine in manufacturing the NAUGARD SFR polymerization inhibitors as recently has been tested with excellent and highly promising results. Uniroyal has already invested heavily to upgrade the capital production equipment in the US and will invest significant additional funds for processing improvements over the next three years should the cost of inputs such as triacetonamine be reduced.

This new investment is creating new jobs with hopes of much further expansion over the next two to five years. Uniroyal is using three shifts five days a week now to produce NAUGARD SFR. Production can be expanded to four shifts seven days a week if NAUGARD SFR is as successful in its global sales as believed. Triacetonamine is the key to that success. It is not manufactured in the US since it is a proprietary product produced by Huls, Inc. in Germany.

In conclusion, Uniroyal supports passage of this legislation, which will allow Uniroyal to reduce its cost of production of the new line of NAUGARD SFR chemicals. These savings can be passed along, in whole or in part, to rubber chemical manufacturers worldwide who purchase this product. There should be no opposition from US chemical manufacturers since this is a proprietary chemical not produced in the US.

We thank you for the opportunity to submit these comments. We are prepared to respond to any questions Committee members or staff may have about this product.

Sincerely,

JAMES B. CLAWSON
JBC International

On behalf of Uniroyal Chemical Company, Inc., we submit these comments regarding H.R. 1887, a bill to temporarily suspend the duty on triacetonamine (4-piperzone 2,2,6,6-tetramethyl). Uniroyal endorses this bill since it will promote worldwide sales of NAUGARD SFR, a chemical that inhibits the development of polymers during the curing of rubbers and plastic. This legislation will help Uniroyal reduce the cost of its production and thereby the cost to consumers.

H.R. 1888

To suspend temporarily the duty on certain twisted yarn of viscose rayon.

see Hoechst Corporation under H.R. 1742

see ICF Industries, Inc. under H.R. 1742

see National Knitwear & Sportswear Association under H.R. 1742

see North American Corporation under H.R. 1742

H.R. 1889

To suspend temporarily the duty on spring steel.

Comments of K2 Corporation

H.R. 1889 AND H.R. 1890: DUTY SUSPENSIONS FOR STEEL EDGES AND BASE MATERIALS

K2 Corporation ("K2"), a U.S. manufacturer of skis and snowboards, supports legislation to suspend U.S. customs duty on imports of two key raw materials used in the production of its skis and snowboards: (1) steel edges and (2) polyethylene base materials. K2 believes the duty suspension legislation is necessary to maintain K2's competitiveness in the U.S. and global marketplace.

I. BACKGROUND: K2 IS THE PRINCIPAL EMPLOYER ON VASHON ISLAND AND PERFORMS SIGNIFICANT MANUFACTURING OPERATIONS THERE.

K2 manufactures skis and snowboards on Vashon Island, Washington. K2 employs over 700 people at its Vashon facility, which makes it the principal employer on the island. K2's employees perform all significant manufacturing processes required to produce its skis and snowboards. All K2 snowboards and virtually all K2 and Olin-brand skis sold throughout the world are individually crafted by skilled K2 technicians on Vashon Island.

K2 sources most key components of its skis and snowboards from Seattle-area companies.

With regard to the imported steel edges and base materials, K2 technicians perform the following operations in making the skis or snowboards. First, the steel edges are bent to the shape of one of the several K2 ski or snowboard designs. The steel edges are then attached to the other main components of the ski or snowboard. These components include: (1) the ski/snowboard core, which consists of several thin pieces of wood glued together, (2) layers of fiberglass mixed with resins, (3) polyethylene base material and (4) the ski cap or snowboard top that encloses the core and fiberglass and binds together the base material and steel edges to form the ski/snowboard. The base material, ski caps and snowboard tops are made of polyethylene and contain graphics which are designed and applied by K2 technicians. Thereafter, the entire assembly is fitted into a press and heated to accelerate the curing process.

II. REASONS WHY THE DUTY SUSPENSIONS FOR STEEL EDGES AND BASE MATERIALS FOR SKIS AND SNOWBOARDS ARE NEEDED

A. There Is Currently No Supplier of Steel Edges or Base Materials in the United States that Meets K2's Requirements.

1. Steel Edges

Until very recently, K2 has imported all of its requirements of steel edges for skis and snowboards from Europe.

K2 has continually attempted to identify U.S. suppliers of steel edges; however, until recently, no suppliers in the United States could meet K2's requirements for this product.[1] This lack of U.S. supply may be attributed to the fact that steel producers consider steel edges for skis and snowboards as specialty steel products. Except for a small ski manufacturer in Colorado known as Volant, K2 is the only U.S. manufacturer of skis. Because virtually all of the world's remaining ski manufacturing capacity is located in Europe, where manufacturers already have an established European source of supply of steel edges, U.S. steel producers have been unwilling to produce a specialty product in order to meet K2's relatively small requirement for steel edges at a reasonable price.

2. Base Materials

K2 currently imports all of its base material requirements for skis and snowboards. K2 imports two kinds of base materials: sintered and extruded. Sintered base material is more durable and has better gliding capability than extruded base material. It is generally used in skis. All of K2's skis and approximately 15% of its snowboards are made of sintered base material.

At the present time, and to the best of our knowledge, there is no U.S. supplier of sintered ski base material, and there is only one supplier of sintered snowboard base material in the United States.[2]

Similarly, K2 is not aware of any United States supplier of extruded base material. (Extruded base material is cheaper and easier to fabricate than sintered base materials, and is used mostly in low end products.) 85% of K2's snowboards are made of extruded base material.

B. The Duty Suspension Would Increase K2's Competitiveness in the U.S. and Foreign Markets.

1. K2 Is a Major Exporter of U.S.-Made Skis and Snowboards.

K2 is major exporter of U.S.-made skis and snowboards. It bears repeating that K2's exports of U.S. skis are the only major exports of U.S. skis. K2's U.S. ski exports compete with other foreign-made skis such as Rossignol, Elan, Salomon and Atomic. Moreover, K2 is one of the three principal exporters of U.S.-made snowboards. Thus, K2's U.S.-made ski and snowboard exports represent a substantial percentage of U.S.-made skis and snowboards.

2. The Duty Suspension Would Increase K2's Competitiveness.

K2 competes with several European manufacturers in the U.S. and throughout the world in a market that is characterized by significant over capacity. It is estimated that the world capacity for the manufacture of skis is 11 million pairs, whereas only 4.5 million pairs were sold worldwide in 1995. As a result, price competition is severe.[3] Additionally, European governments are known to provide direct or indirect financial incentives to their ski manufacturers.

In contrast, K2 is required to pay significant amounts in U.S. customs duties on its importations of steel edges and base materials for products that it cannot source domestically.

The fierce level of competition in the ski industry has left K2 as the last remaining major U.S. ski manufacturer and one of only three major U.S. snowboard manufacturers.[4]

C. The Duty Suspension Would Secure Current Jobs and Encourage Growth at K2's Vashon Facility.

The duty suspension would generate approximately $100,000 to $200,000 dollars in duty savings annually. K2 would like to use the savings to secure current jobs at its Vashon facility and to continue to encourage development of innovative new products.

[1] K2 is currently running extensive tests and production samples of steel edges produced by Bekaert Steel Company, a Belgian-owned steel company that has recently begun manufacturing in the U.S.

[2] K2 has made repeated efforts to use domestically-sourced, sintered base material for snowboards. However, it has not been of the production quality necessary to meet K2's needs.

[3] According to Ski Industries America (SIA), approximately 850,000 pairs of skis and 450,000 snowboards were sold in the United States during the 1995–6 season. Approximately 650,000 pairs of skis and 300,000 snowboards were imported during the same period.

During the 1995–6 season, the major importers of skis to the U.S. were Rossignol (160,000 pairs, France), Elan (120,000 pairs, Austria), Salomon (100,000 pairs, France) and Atomic (80,000 pairs, Austria).

[4] U.S. ski manufacturers that have gone out of business in the last 10 years due to increased competition in the industry include: Century—Tacoma, WA; Hexel—Carson City, NV; The Ski—Sun Valley, ID; Head—Boulder, CO; Hart—St. Paul, MN.

III. CONCLUSIONS AND RECOMMENDATION

In sum, K2 is currently unable to identify a United States supplier that would satisfy its requirements of base materials and only recently has a identified a U.S.-based manufacturer of steel edges willing to work with it to explore U.S. production possibilities to meet K2's needs. Consequently, K2 requests legislation to amend the Harmonized Tariff Schedules of the United States that would suspend duty on imported steel edges and base materials used in manufacture of skis and snowboards. Such duty suspensions, which will account for significant customs duty savings per year, are vital to K2's continued economic competitiveness in an already tight market. Moreover, these savings will contribute significantly to K2's future growth and expansion in Vashon.

Comments of Robert L. Brock, Executive Vice President, Profiles, Inc., Ware, Massachusetts

Premise for the elimination of this duty is that it does not protect any U.S. industry as there are no U.S. companies that produce this material.

Profiles, Inc. has been in the past and continues today to be in the business of producing just such material. We presently are a supplier of this material to one of the major manufacturers of snowboards in this country. We have the capacity to produce higher volumes for other customers and are actively pursuing that possibility.

When skis were more abundantly produced in this country, we were a major supplier. The majority of skis are now produced in Europe and until the advent of the snowboard industry, we were a small producer.

We presently must compete with European suppliers of this material who not only have the advantage of producing large quantities of this product, but we understand may enjoy government subsidies. Price competition is very intense and with our relatively small volumes, we have to be extremely efficient to compete.

We would urge careful consideration of this amendment with the understanding that there is an American manufacturer of this edge material who will be affected by your decisions.

We appreciate the opportunity of commenting on this resolution.

Submitted on: 28 July 1997

H.R. 1890

To suspend temporarily the duty on polyethylene base materials.

see K2 Corporation under H.R. 1889

H.R. 1893

To suspend until January 1, 2000, the duty on Tetrafluoroethylene, Hexafluoropropylene, and Vinylidene fluoride.

No comments submitted.

H.R. 1897

To suspend temporarily the duty on KN001 (a hydrochloride).

No comments submitted.

H.R. 1907

To amend the Harmonized Tariff Schedule of the United States to allow the duty-free entry of an additional quantity of green peanuts that are the product of Mexico.

No comments submitted.

H.R. 1919

To suspend until January 1, 2001, the duty on a chemical.

No comments submitted.

H.R. 1920

To suspend until January 1, 2001, the duty on a chemical.

No comments submitted.

H.R. 1921

To suspend until January 1, 2001, the duty on a chemical.

No comments submitted.

H.R. 1922

To suspend until January 1, 2001, the duty on a chemical.

No comments submitted.

H.R. 1923

To suspend until January 1, 2001, the duty on a chemical.

No comments submitted.

H.R. 1924

To suspend until January 1, 2001, the duty on a chemical.

No comments submitted.

H.R. 1925

To suspend until January 1, 2001, the duty on a chemical.

No comments submitted.

H.R. 1926

To suspend until January 1, 2001, the duty on a chemical.

No comments submitted.

H.R. 1927

To suspend until January 1, 2001, the duty on a chemical.

No comments submitted.

H.R. 1928

To suspend until January 1, 2001, the duty on a chemical.

No comments submitted.

H.R. 1929

To suspend until January 1, 2001, the duty on a chemical.

No comments submitted.

H.R. 1930

To suspend until January 1, 2001, the duty on a chemical.

No comments submitted.

H.R. 1931

To suspend until January 1, 2001, the duty on a chemical.

No comments submitted.

H.R. 1932

To suspend until January 1, 2001, the duty on a chemical.

No comments submitted.

H.R. 1933

To suspend until January 1, 2001, the duty on a chemical.

No comments submitted.

H.R. 1934

To suspend until January 1, 2001, the duty on a chemical.

No comments submitted.

H.R. 1935

To suspend until January 1, 2001, the duty on a chemical.

No comments submitted.

H.R. 1936

To suspend until January 1, 2001, the duty on a chemical.

No comments submitted.

H.R. 1937

To suspend until January 1, 2001, the duty on a chemical.

No comments submitted.

H.R. 1938

To suspend until January 1, 2001, the duty on a chemical.

CIBA SPECIALTY CHEMICALS CORPORATION
TARRYTOWN, NEW YORK 10591
August, 14, 1997

A.L. Singleton
Chief Of Staff
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Re: H.R. 1938

Dear Mr. Singleton:

This letter is submitted in response to the Committee's request for comments regarding proposed duty suspension bills. Ciba Specialty Chemicals requests that this letter serve as its objection to the passage into law of H.R. 1938.

The subject bill seeks to temporarily suspend the duty on a product described as benzenesulfonic acid, 2,2′-(1,2-ethenediyl)bis [5-nitro- (CAS No. 128–42–7), currently classified in the tariff under subheading 2904.90.35.00 (4,4′-Dinitrostilbene-2,2′-disulfonic acid). The product is also known as di-nitro stilbene (DNS).

DNS is a direct intermediate in the production of certain stilbenic dyes and fluorescent whitening agents. Ciba is a U.S. manufacturer of these stilbenic dyes and fluorescent whitening agents (FWA). DNS is produced by Ciba as an intermediate in its manufacture of these products. In other certain instances we also sell DNS commercially.

Duty elimination on DNS would allow ease of production of the finished goods, in the case of the stilbenic dyes; and, would allow extreme ease in production of DAS, which is the next intermediate in FWA manufacture. Ciba is the only U.S. manufacturer of the entire stilbene train consisting of DNS and DAS.

The consequences of this action on Ciba would be great. The company has invested over 25 million dollars in our manufacturing facilities and processes for the production of DNS. Additionally, many employees are involved in the production of the DNS, and the resultant products we manufacture. This is a sizeable investment at risk. Ciba would face an extreme competitive disadvantage should imports of DNS enter duty free. Should it be necessary we would be willing to provide additional data relating to the impact of this proposed measure.

Accordingly, we request that HR 1938 not be passed into law. Please feel free to contact me in connection with any questions or additional information you may need.

Very truly yours,

MICHELLE F. FORTE
International Trade Counsel

H.R. 1940

To suspend temporarily the duty on the chemical P-nitrobenzoic.

No comments submitted.

H.R. 1945

To amend the Harmonized Tariff Schedule of the United States to suspend temporarily the duty on certain manufacturing equipment.

Comments of Cooper Tire & Rubber Company, Findlay, Ohio

Cooper Tire & Rubber Company ("Cooper") submits these comments in opposition to that portion of the proposed duty suspension bill (H.R. 1945) which relate to equipment classified under Harmonized Tariff Schedule ("HTS") Numbers 8420.10.90, 8420.91.90, 8420.99.90, 8462.31.00, 8463.30.00, 8477.20.00, 8477.51.00, 8477.90.80, and 8465.91.00.

Cooper operates ten manufacturing facilities in the United States with 9,066 employees on our payroll. We are a U.S. company with four tire manufacturing plants in the United States. Our automobile and truck tires and inner tubes comprise the largest portion of Cooper's business but we also manufacture vibration control products, hoses and hose assemblies and automotive sealing systems.

We find no introductory statement of H.R. 1945, but in the companion bill introduced in the Senate, the proposed legislation has been represented as temporary duty suspension on certain equipment used to manufacture earthmoving tires. However, in reviewing the descriptions under the listed HTS numbers, it is clear the equipment is such as is used to manufacture any type of tires and other rubber products.

In the past, Cooper has equipped its plants by building or importing equipment for manufacturing. Over a period of many years, we have paid the full duty on all imported equipment.

It appears this bill will benefit only one manufacturer for a period of time needed to allow the manufacturer to bring into the U.S. equipment to meet future planned development and/or expansion. Cooper is opposed to the bill because it will place those companies who have paid the duty on past imported equipment at a competitive disadvantage. As you may know, the tire industry is extremely competitive and a mature industry. Legislation which will benefit one company and has no dollar limit on the value of equipment to be imported duty free is not fair.

Finally, this legislation could amount to a significant loss of revenue to the U.S. Treasury. Equipment of the type described is expensive and the duty is as high as 4.4%. Such a potential loss to the government should not be overlooked in evaluating the proposed bill.

For all the above reasons, Cooper is opposed to H.R. 1945 as written and asks that these comments be given serious consideration.

Comments of Robert J. Schrecongost, Vice President Technical, Dunlop Tire Corporation, Buffalo, New York

Dunlop Tire Corporation with Headquarters in Buffalo, New York manufactures original equipment and replacement tires for markets in the United States. Dunlop has two (2) tire manufacturing plants in the U.S., one in Alabama, the other in New York State. These plants employ 3197 individuals.

Dunlop opposes the passage of H.R. 1945, because it would place us at a competitive disadvantage. In reviewing the tariff classifications that are specified in H.R. 1945, Dunlop technical staff have determined that the manufacturing equipment involved could be used for the manufacture of automobile, truck, and other tires. This equipment is also capable of producing a wide spectrum of tire components and other rubber products. This equipment is not unique to earthmover tires. Even if the equipment involved were used only for earthmover tires, it is still a segment of the larger industry in which Dunlop participates. A temporary suspension of tariffs as proposed would represent a disadvantage to Dunlop in this industry because tire manufacture would be accomplished with equipment that was duty free.

If this temporary bill were passed it would be in effect for three years. There is no ceiling on the amount of machinery that can be imported during this period and the capability of the machinery covered includes products of our business, therefore, Dunlop would unfairly be placed at a significant financial disadvantage. Duty has always been paid by Dunlop on the machinery it imports.

Passage of this bill would also cause a large tariff revenue loss potential to the U.S. Treasury.

Dunlop is opposed to H.R. 1945 as it is currently written because it makes it possible to manufacture tires, earthmover and others, with equipment on which no duty is being paid. This bill is unfair to manufacturers like ourselves who have paid duty on imported tire manufacturing equipment.

Comments of The Goodyear Tire & Rubber Company, Akron, Ohio

The Goodyear Tire & Rubber Company, headquartered in Akron, Ohio, is the last remaining U.S. tire company to manufacture for both the original equipment and replacement markets here in the United States. Goodyear has 34 tire and rubber products plants within the U.S., employing more than 40,000 associates in 19 states.

As currently drafted, Goodyear opposes passage of H.R. 1945, a bill which would suspend temporarily the duty on tire and rubber-related manufacturing equipment, because of its broad scope. While no floor statement accompanied the introduction of H.R. 1945, when a companion bill was introduced in the Senate (S. 915), Senator Thurmond indicated it was for the manufacture of earthmover tires. However, in reviewing the tariff classifications that are specified in H.R. 1945, Goodyear's technical staff has determined that the machinery in question could be used for any type of tire manufacture from auto passenger through earthmover tires, including farm equipment tires. These machines would also be capable of producing a wide range of engineered and automotive rubber products.

Because of the broad scope of machinery for tire and related rubber products that could be imported into the U.S. duty-free under this bill, Goodyear opposes H.R. 1945 because it would place us at a competitive disadvantage. If passed, this temporary duty suspension bill would be in effect for three years, retroactive to May 1, 1997 as specified in the bill. Since there is no cap on the amount of machinery that can be imported into the U.S. during that three-year period and the scope of machinery covered includes all aspects of our business, Goodyear would be placed at a significant financial disadvantage. Goodyear, like many other tire companies, purchases its machines primarily from U.S. manufacturers and also imports some of its machinery from abroad. Goodyear has always paid duty on the machinery it imports.

If this bill were to pass, there would be significant tariff revenue potentially lost to the U.S. Treasury. Any tariff revenue loss of over $500,000 is considered significant by your Committee and would have to have a budget offset. The tariff classifications covered under H.R. 1945 represent a significant portion of the machines needed for a typical earthmover plant whose total cost is a couple of hundred million dollars. The average U.S. tariff rate on this type of equipment is 3.4 percent. If the duty were to be suspended on these imported machines, the U.S. Treasury would lose more than $2.5 million.

In conclusion, The Goodyear Tire & Rubber Company is opposed to H.R. 1945 as currently drafted because the scope of the machinery involved is so broad that it could cover not only the example referenced above, a portion of the typical equipment for an earthmover plant, but could well include equipment for the manufacture of a wide range of tire and rubber-related products. Therefore, the $2.5 million revenue loss to the U.S. Treasury must be considered as the minimum and would in all probability be much more.

H.R. 1947

To amend the Harmonized Tariff Schedule of the United States with respect to shadow mask steel.

LTV STEEL COMPANY, INC.
LAW DEPARTMENT
CLEVELAND, OH 44114–2308
July 25, 1997

The Honorable Philip M. Crane
Chairman
Sub Committee on Trade
House Ways and Means Committee
1102 Longworth House Office Building
Washington, D.C. 20515

Re: House of Representative Bill 1947

Dear Mr. Crane:

LTV Steel Company is strongly opposed to the adoption of House of Representative Bill 1947 which proposes to eliminate all tariffs on steel used for "shadow masks."

LTV Steel is a U.S. producer of steel used for "shadow masks." We sell this product to our customers including one of the few remaining U.S. companies who still produce steel product for aperture masks for television sets in the United States. The steel produced for our customers is in direct competition with imports of shadow mask steel from Japan. The elimination of the tariff on shadow mask steel would only encourage additional imports and would adversely affect sales.

I would appreciate your taking appropriate action to defeat this bill.

Very truly yours,

DANIEL R. MINNICK
Senior Attorney

DRM/ltk/11694

H.R. 1954

To suspend temporarily the duty on certain high tenacity single yarn of viscose rayon.

see Hoechst Corporation under H.R. 1742

see ICF Industries, Inc. under H.R. 1742

see National Knitwear & Sportswear Association under H.R. 1742

see North American Corporation under H.R. 1742

H.R. 1973

To amend the Harmonized Tariff Schedule of the United States to provide for duty-free treatment of oxidized polyacrylonitrile fibers for use in aircraft brake components.

No comments submitted.

H.R. 2041

To suspend temporarily the duty on the production of anti-cancer drugs.

No comments submitted.

H.R. 2042

To suspend temporarily the duty on the production of anti-cancer drugs.

No comments submitted.

H.R. 2043

To suspend temporarily the duty on the production of anti-cancer drugs.

No comments submitted.

H.R. 2044

To suspend temporarily the duty on the production of anti-cancer drugs.

No comments submitted.

H.R. 2045

To suspend temporarily the duty on the production of anti-cancer drugs.

No comments submitted.

H.R. 2046

To suspend temporarily the duty on the production of anti-cancer drugs.

No comments submitted.

H.R. 2047

To suspend temporarily the duty on the production of anti-HIV/anti-AIDS drugs.

No comments submitted.

H.R. 2048

To suspend temporarily the duty on the production of anti-HIV/anti-AIDS drugs.

No comments submitted.

H.R. 2049

To suspend temporarily the duty on the production of anti-cancer drugs.

No comments submitted.

H.R. 2058

To suspend temporarily the duty on phenmedipham.

Comments of AgrEvo USA Company, Wilmington, Delaware

AgrEvo USA Company ("AgrEvo") appreciates the opportunity to submit to the Subcommittee on Trade of the Committee on Ways and Means of the United States House of Representatives the following statement in support of H.R. 2058, H.R. 2059 and H.R. 2060.

I. THE PURPOSE OF H.R. 2058, H.R. 2059 AND H.R. 2060.

H.R. 2058 (pertaining to AgrEvo's agricultural chemical products containing Phenmedipham), H.R. 2059 (pertaining to AgrEvo product containing Ethofumesate) and H.R. 2060 (pertaining to AgrEvo's agricultural chemical products containing Desmedipham) would suspend on a temporary basis the import duty on Phenmedipham Ethofumesate and Desmedipham (in bulk and packaged form). There are no other manufacturers in the United States of these three active ingredients. These bills have the support of Zeneca, Inc. and DuPont Agricultural Products, domestic competitors of AgrEvo, and are non-controversial.

II. BACKGROUND.

AgrEvo is involved in the manufacture, distribution and sale of proprietary and/or patented agrichemical products including a wide range of defoliants, herbicides, insecticides and fungicides. These products are designed to assist American farmers in dealing with various weed species, crop-damaging insects and other threats to crop yield and product quality and are used in a wide variety of products, including tree fruit, sugar beets, cotton, corn and cereals.

AgrEvo and its predecessors in interest have been in the agricultural chemicals business for many decades. AgrEvo operates an active ingredient manufacturing and formulation facility in Muskegon, Michigan, laboratory facilities in Goldsboro, North Carolina, product-testing farms in three states, regional and sales offices in five (ND,CA,FL,IL,NC) states and a corporate headquarters in Wilmington, Delaware. AgrEvo's products are sold in all fifty states.

Phenmedipham, Desmedipham and Ethofumesate are proprietary and/or patented herbicides belonging to AgrEvo which are used extensively by farmers through out the United States. They are assets to farmers because they control a wide variety of weeds in sugar beets, grass seed, spinach and red table beets thereby promoting higher yields and quality crops. In order to deliver products containing Phenmedipham, Desmedipham and Ethofumesate in a safer (reduced user exposure) manner and in a more environmentally sound fashion, AgrEvo has introduced closed system, refillable, returnable containers which reduce the dependence on plastic disposable containers which are discarded in land fills, while also virtually eliminating any user product exposure.

III. THE NEED FOR DUTY EXEMPTION FOR PHENMEDIPHAM, ETHOFUMESATE AND DESMEDIPHAM.

The agrichemical business in the United States is fiercely competitive. The temporary suspension of the duties on Phenmedipham, Ethofumesate and Desmedipham would allow AgrEvo to compete in the marketplace more effectively by reducing the Company's production costs; additionally, it would permit the Company to spend more money on product development and plant and human resources enhancement.

IV. The Active Ingredients Phenmedipham, Ethofumesate and Desmedipham: The Products and Their Utility.

AgrEvo's products Phenmedipham, Ethofumesate and Desmedipham are registered with the United States Environmental Protection Agency ("EPA") and cannot be sold in the United States without such registration. In an effort to better satisfy sugar beet grower's need to control specific weed problems AgrEvo currently sells seven products containing one or more of these active ingredients: BETANEX®, BETAMIX®, Betamix PROGRESS® (now registered as Progress™), NORTRON® SC, SPIN–AID® and PROGRASS®. The EPA-approved labels for these products are attached at Exhibit 1.

- BETANEX® is a post emergence sugar beet herbicide which contains a single active ingredient Desmedipham. It is used for control of a range of problematic broadleaf weeds especially redroot pigweed which is a specific weed problem in sugar beets grown in the Red River Valley of North Dakota and Minnesota.
- SPIN–AID®, which contains Phenmedipham, is used as a post-emergence herbicide for the control of weeds found in spinach seed production and for weeds found in red beet production
- BETAMIX® is a sugar beet herbicide which contains a mixture of two active ingredients Desmedipham (BETANEX®) Phenmedipham (SPIN–AID®). BETAMIX® is a post-emergence herbicide which controls a broader spectrum of weeds than either Betanex or Spin-Aid used alone.
- Betamix PROGRESS® (PROGRESS™) is a post-emergence herbicide, containing Phenmedipham, Ethofumesate and Desmedipham as active ingredients. Betamix PROGRESS® controls the broadest spectrum of weeds encountered in the production of sugar beets.
- NORTRON® SC contains the active ingredient Ethofumesate alone and is used to control weeds in sugar beets and is used as a grass seed herbicide for selective control of weeds in certain grass seed crops and in commercial sod production in the Pacific Northwest. It is especially effective against annual broadleaf weeds found in sugar beet fields and against other annual grass weeds. NORTRON® SC can be used as a pre-emergence herbicide or in post-emergence situations, depending upon the weeds found and can be used in conjunction with the above products and with products manufactured by other entities.
- PROGRASS® contains the active ingredient Ethofumesate alone and is used by professional applicators as a selective herbicide on ornamental turf only.

The use of AgrEvo products containing one or more of the active ingredients referenced above is effective against a wide variety of persistent weeds which are extremely harmful to sugar beets and certain grass seed and spinach seed crops. The unique aspect of these AgrEvo products is that they are potent herbicides, alone or in combination with one another. Competitive products are less efficacious against the wide spectrum of weeds controlled by the AgrEvo products; thus, use of AgrEvo products results in the application of fewer chemical treatments of the farmers' land (thus reducing the volume of active ingredient necessary per acre).

Also, all of these products can be applied using re-usable containers. The use of a re-usable container with the "dry-lock" closed delivery coupler system limits farmer exposure to the active ingredient and is significantly less resource intensive than the use of disposable containers. AgrEvo devoted substantial resources to the development of a fleet of its re-usable containers which utilize 15 gallon stainless steel SVR (small volume returnable) containers.

V. The Benefits of Tariff Removal

In a larger competitive sense, removing costly import tariffs on Phenmedipham, Ethofumesate and Desmedipham will provide greater flexibility for AgrEvo to utilize its production facility in Muskegon, Michigan to formulate new, complementary products at that facility and to continue its research and development of delivery systems that reduce worker exposure and reduce the environmental loading from the disposal of non-reusable packaging. The AgrEvo facility in Muskegon was the beneficiary of past duty exemption legislation which enabled the plant to maintain a stable and growing work force. In fact, AgrEvo is in the process of building a multi-million dollar plant expansion and enhancement for its Muskegon, Michigan facility, which will permit it to expand into the production of other proprietary products. Duty exemption for Phenmedipham, Ethofumesate and Desmedipham could serve as a substantial enhancement to AgrEvo to perform formulation work at its Muskegon facility for which would complement the existing AgrEvo product line and would thus further enhance the competitive viability—and longevity—of that facility. Additionally, the projected savings on the reduction of import duties for these products will enable AgrEvo to engage in enhanced product formulation and metabolic testing functions for these and other products at its Goldsboro facility, thus enhancing its viability and utility to AgrEvo, and to the community of Goldsboro.

VI. SUMMATION

In summary, the temporary elimination of import tariffs on Phenmedipham, Ethofumesate and Desmedipham will enable AgrEvo to shore up its competitive footing in the industry, produce product on a more cost-efficient basis and pass these savings along to the farmer, who, in turn, will enhance production capabilities and farming efficiencies. These savings will be passed along to the consumer in direct product savings and in secondary savings of soil and environmental conservation. Since there are no other domestic manufacturers of these active ingredients, this legislation will have no adverse impact on U.S. producers. The reduction of these tariffs will also permit AgrEvo to better utilize and expand its production facilities at Muskegon, Michigan and at its testing facilities in Goldsboro, North Carolina, conserving, and possibly promoting, employment opportunities at those facilities.

[Attachments are being retained in the Committee's files.]

H.R. 2059

To suspend temporarily the duty on ethofumesate.

see AgrEvo USA Company under H.R. 2058.

H.R. 2060

To suspend temporarily the duty on desmedipham.

see AgrEvo USA Company under H.R. 2058.